

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 23, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council Member Young at 10:00 a.m. Council Member Young recessed the meeting at 11:14 a.m. for the purpose of a break. Council Member Young reconvened the meeting at 11:22 a.m. with Council President Peters and Council President Pro Tem Madaffer not present. The meeting was recessed by Council Member Young at 11:54 a.m.

The meeting was reconvened by Council Member Young at 2:04 p.m. with Council President Peters, Council President Pro Tem Madaffer and Council Member Hueso not present. Council Member Young recessed the meeting at 2:45 p.m. for the purpose of a break. Council Member Young reconvened the meeting at 2:51 p.m. with Council President Peters and Council President Pro Tem Madaffer not present. Council Member Young recessed the meeting at 4:13 p.m. to convene the Housing Authority. Council Member Young reconvened the regular meeting at 4:14 p.m. with Council President Peters and Council President Pro Tem Madaffer not present. Council Member Young recessed the meeting at 4:18 p.m. to reconvene the Housing Authority. Council Member Young reconvened the regular meeting at 4:45 p.m. with Council President Peters and Council President Pro Tem Madaffer not present. The meeting was adjourned by Council Member Young at 4:55 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present

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(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:31 a.m.)

PUBLIC COMMENT-2:

Al Strohlein commented on code citations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. - 10:33 a.m.)

PUBLIC COMMENT-3:

Nancelle Lauffer commented on poor people living on the streets.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:38 a.m.)

PUBLIC COMMENT-4:

Cricket Bradburn commented on her concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:38 a.m.)

PUBLIC COMMENT-5:

Joey Racano commented on the 301 (h) waiver.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:41 a.m.)

PUBLIC COMMENT-6:

Phil Hart commented on SEDC and the Strong Mayor Form of Government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

PUBLIC COMMENT-7:

Izean Rim, Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. - 10:52 a.m.)

PUBLIC COMMENT-8:

Barbara Winton commented on various concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. - 10:56 a.m.)

PUBLIC COMMENT-9:

Lane Sharman commented on water, demand and supply.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:59 a.m.)

PUBLIC COMMENT-10:

Reginald Jerome Tisdale commented on the Metropolitan Transit System, (MTS).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. – 11:03 a.m.)

PUBLIC COMMENT-11:

Marvin Allen commented on smoking.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. - 11:06 a.m.)

PUBLIC COMMENT-12:

Joy Sunyata commented on redevelopment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. - 11:08 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Faulconer invited all to attend the 45th Annual Cabrillo Festival at the Point Loma Submarine Base, Saturday, September 25, 2008.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:17 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Michael Sprague Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-268) ADOPTED AS RESOLUTION R-304144

Commending and thanking Michael Sprague for the contributions he has made to the City of San Diego's City Heights community;

Proclaiming September 23, 2008, to be "Michael Sprague Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:00 a.m. – 10:06 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote:
Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-not present, Hueso-not present.

ITEM-31: 4th Annual Filipino-American Arts and Culture Festival Day.

COUNCILMEMBER YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-152) ADOPTED AS RESOLUTION R-304145

Proclaiming October 4, 2008, to be "4th Annual Filipino-American Arts and Culture Festival Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:07 a.m. – 10:11 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote:
Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-not present, Hueso-yea.

ITEM-32: Laurie Marcus Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-266) ADOPTED AS RESOLUTION R-304146

Proclaiming September 23, 2008, as "Laurie Marcus Day" in the City of San Diego in recognition of her many outstanding contributions and service to San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:15 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote:
Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-not present, Hueso-yea.

- * ITEM-100: Cooperative Agreement with CalTrans for the Laurel Street (Cabrillo) Bridge
over State Route 163. (Balboa Park Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-250) ADOPTED AS RESOLUTION R-304147

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with CalTrans, for the purpose of preparing the project report, environmental document, plans, specifications and estimate for the seismic retrofit and rehabilitation of the Laurel Street (Cabrillo) Bridge over State Route 163, CIP-53-061.0, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Declaring that this activity is not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). CalTrans will be the CEQA Lead Agency for any construction work as described in the Cooperative Agreement and will involve the City as a Responsible Agency.

STAFF SUPPORTING INFORMATION:

The maintenance of the Laurel Street (Cabrillo) Bridge over State Route 163 is the responsibility of both the City of San Diego and Caltrans who maintains the portion of the bridge over State Route-163. This bridge has been identified by Caltrans as needing both seismic retrofitting and rehabilitation improvements. This Cooperative Agreement covers Stage 1 work which consists of preparing the Project Report, Environmental Document, Plans, Specifications and Estimate for the seismic retrofit and rehabilitation of the bridge.

A separate Cooperative Agreement will address Stage 2 which will be the construction of the seismic retrofit and rehabilitation measures.

FISCAL CONSIDERATIONS:

CalTrans is funding 100% of the cost of the work associated with the Cooperative Agreement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

EQUAL OPPORTUNITY CONTRACTING:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517). There are no goals associated with this action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 24, 2008, the Historic Resources Board was briefed on the proposed scope of work for the bridge and the Balboa Park Committee will also be briefed.

KEY STAKEHOLDERS:

- Caltrans
- Balboa Park Committee
- Historic Resources Board

Boekamp/Jarrell

Staff: Brad Johnson - (619) 533-5120
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

- * ITEM-101: General Requirements Contract (GRC) 2007C Operating Facility Mechanical Contract and Funding Modification. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-233) ADOPTED AS RESOLUTION R-304148

Expanding the source of funds authorized for the General Requirements Contract, GRC 2007C - Mechanical Systems, to include all potential City funding sources;

Declaring that prior to the award of each task order under the contract, the City Auditor must first provide one or more certificates demonstrating that the necessary funds are, or will be, on deposit in the City Treasury;

Authorizing the City Comptroller to return excess unencumbered funds, if any, to the appropriate reserves allocated in Auditor's Certificate 2800168 which reside in Sewer Fund Nos. 41506, 41508, 41509, and Storm Water Pollution Prevention Division Fund No. 100, Dept. 533;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4).

STAFF SUPPORTING INFORMATION:

On August 4, 2006, the City Council authorized the Mayor, or his designee, to advertise and award the GRC 2007C Contract (Resolution Number R-301676). MWWD awarded the contract to Ahrens Corporation on October 1, 2007.

The GRC 2007C Contract was initiated by MWWD staff and was originally intended for MWWD projects. Since that time, City Council has approved the Engineering Services Business Process Reengineering. The City staff that manages the GRC 2007C Contract and the associated projects were relocated to Engineering and Capital Projects Department. In addition, departments such as Water, General Services, Airports, and Fire and Life Safety have an urgent need to use this contract to execute projects. This action requests authorization to modify the existing GRC 2007C Contract to execute City projects from all City departments and all funding sources.

The Resolution (R-301676) currently requires projects to be funded from Sewer Funds 41506, 41508, 41509, and Storm Water Pollution Prevention Division Fund No. 100, Dept. 533. This modification would apply to all types of funding sources.

FISCAL CONSIDERATIONS:

The funding for projects executed under this contract is currently limited to an amount not to exceed \$2,000,000 from Sewer Funds 41506, 41508, and 41509 and Storm Water Pollution Prevention Division Fund 100, Dept. 533. This action would modify the source of funding to allow all City Funding Sources to be executed under the GRC 2007C Contract. This action would unencumber funds allocated to AC2800168 which reside in Sewer Funds 41506, 41508, and 41509 and Storm Water Pollution Prevention Division Fund No. 100, Dept. 533. This GRC Contract contains a guarantee to issue the contractor a minimum value of total work worth \$50,000. To date, the value of work authorized has exceeded \$50,000; therefore, the minimum guarantee has been fulfilled and there is no need to encumber the \$50,000 minimum guarantee for this contract.

EQUAL OPPORTUNITY CONTRACTING:

This Agreement is subject to the City's Equal Opportunity Contracting Ordinance (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

Funding Agency: City of San Diego - Prevailing wages apply to this contract.
Other: Workforce Report Submitted Equal Opportunity Plan not required. Staff will monitor adherence to Non-Discrimination in Contracting Ordinance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On August 4, 2006, Council Resolution R-301676 approved this agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Oskoui/Jarrell

Staff: James Nagelvoort - (619) 533-3616
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

- * ITEM-102: General Requirements Contract (GRC) 2006E Electrical Systems Contract Funding Modification. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-232) ADOPTED AS RESOLUTION R-304149

Expanding the source of funds authorized for the General Requirements Contract, GRC 2006E Electrical Systems, to include all potential City funding sources;

Declaring that prior to the award of each task order under the contract, the City Auditor must first provide one or more certificates demonstrating that the necessary funds are, or will be, on deposit in the City Treasury;

Authorizing the City Comptroller to return excess unencumbered funds, if any, to the appropriate reserves allocated in Auditor's Certificate Nos. 2700352 and 2800695 which reside in Sewer Fund Nos. 41506, 41508, 41509, and Storm Water Pollution Prevention Division Fund No. 100, Dept. 533;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4).

STAFF SUPPORTING INFORMATION:

On August 4, 2006, the City Council authorized the Mayor, or his designee, to advertise and award the GRC 2006E Contract (Resolution Number R-301674). MWWD awarded the contract to Neal Electric Corporation on February 12, 2007.

The GRC 2006E Contract was initiated by MWWD staff and was originally intended for MWWD projects. Since that time, City Council has approved the Engineering Services Business Process Reengineering. The City staff that manages the GRC 2006E Contract and the associated projects were relocated to the Engineering and Capital Projects Department. In addition, departments such as Water, General Services, Airports, and Fire and Life Safety have an urgent need to use this contract to execute projects. The Resolution (R-301674) currently restricts projects funded from Sewer Funds 41506, 41508, 41509, and Storm Water Pollution Prevention Division Fund No. 100, Dept. 533. This modification would apply to all types of funding sources.

FISCAL CONSIDERATIONS:

The funding for projects executed under this contract is currently limited to an amount not to exceed \$2,000,000 from Sewer Funds 41506, 41508, and 41509 and Storm Water Pollution Prevention Division Fund 100, Dept. 533. This action would modify the source of funding to allow all City Funding Sources to be executed under the GRC 2006E Contract. This action would unencumber funds allocated to AC2700352 and AC2800695 which reside in Sewer Funds 41506, 41508, and 41509 and Storm Water Pollution Prevention Division Fund No. 100, Dept. 533. This GRC Contract contains a guarantee to issue the contractor a minimum value of total work worth \$50,000. To date, the value of work authorized has exceeded \$50,000; therefore, the minimum guarantee has been fulfilled and there is no need to encumber the \$50,000 minimum guarantee for this contract.

EQUAL OPPORTUNITY CONTRACTING:

This Agreement is subject to the City's Equal Opportunity Contracting Ordinance (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

Funding Agency: City of San Diego - Prevailing wages apply to this contract.
Other: Workforce Report Submitted - Equal Opportunity Plan not required. Staff will monitor adherence to Nondiscrimination Ordinance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On August 4, 2006, Council Resolution R-301674 approved this agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/AKEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Oskoui/Jarrell

Aud. Cert. 2800695.

Staff: James Nagelvoort - (619) 533-3616
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

- * ITEM-103: Supporting California Initiative 07-0041, The Prevention of Farm Animal Cruelty Act. (District 6.)

(See Attorney General's initiative measure; Councilmember Frye's 7/15/2008, proposal; Humane Society's Yes! On Prop 2; Californians for SAFE Food No on Prop 2; and Californians for No on Prop 2 flyer.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1203 Cor. Copy) ADOPTED AS RESOLUTION R-304150

Supporting California Initiative 07-0041, The Prevention of Farm Animal Cruelty Act.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 9/3/2008, Rules voted 5 to 0 to support statewide ballot Proposition 2, The Prevention of Cruelty to Farm Animals, and forward Councilmember Frye's resolution to Council for approval. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-104: Reappointments to the Small Business Advisory Board.

(See memorandum from Mayor Sanders dated 9/4/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-290) ADOPTED AS RESOLUTION R-304151

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Small Business Advisory Board, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Faith Bautista (Rancho Peñasquitos, District 1) (Reappointment)	Small Business Owner	July 1, 2009
Scott C. Cummins (La Jolla, District 1) (Reappointment)	Member-at-Large Legal	July 1, 2009
Warren Simon (La Mesa) (Reappointment)	Business Improvement District Council	July 1, 2010
Chi Kim Tran (Rancho Bernardo, District 5) (Reappointment)	Economic	July 1, 2009

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of reappointment, it is determined that Warren Simon is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Small Business Advisory Board, therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-105: Reappointment to the Housing Advisory and Appeals Board.

(See memorandum from Mayor Sanders dated 9/4/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-291) ADOPTED AS RESOLUTION R-304152

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Housing Advisory and Appeals Board, for a term ending as indicated:

NAME

TERM ENDING

Stanwood Johnson
(San Carlos, District 7)
(Reappointment)

March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-106: Reappointments to the Sustainable Energy Advisory Board.

(See memorandum from Mayor Sanders dated 9/9/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-293) ADOPTED AS RESOLUTION R-304153

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Sustainable Energy Advisory Board, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Dan Perkins (Vista) (Reappointment)	Environmental Advocate	March 1, 2009
Michael Turk (Pacific Beach, District 2) (Reappointment)	Building Industry Representative	March 1, 2009
Scott Whitley (Poway) (Reappointment)	Solar Power System Manufacturer/ Installer Representative	March 1, 2009
Cecilia Aguillon (Clairemont, District 6) (Reappointment)	At-Large Member	March 1, 2010
Timothy Golba (La Jolla, District 1) (Reappointment)	At-Large Member	March 1, 2010
Irene Stillings (Del Mar, District 1) (Reappointment)	San Diego Regional Energy Office/California Center for Sustainable Energy Representative	March 1, 2010

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of reappointments, it is determined that Dan Perkins and Scott Whitley are residents of San Diego County, but not the City of San Diego, and have unique qualifications to serve as members of the Sustainable Energy Advisory Board, therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

- * ITEM-107: Reappointments to the Southeastern Economic Development Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 9/10/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-292) ADOPTED AS RESOLUTION R-304154

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as directors of the Southeastern Economic Development Corporation, for terms ending as indicated:

NAME

TERM ENDING

Richard Geisler
(Point Loma, District 2)
(Reappointment)

May 25, 2011

Daniel Cruz Gonzalez
(Tierrasanta, District 7)
(Reappointment)

May 25, 2010

Derryl Williams
(Webster, District 4)
(Reappointment)

May 25, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-108: Reappointment to the Human Relations Commission.

(See memorandum from Mayor Sanders dated 9/9/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-285) RETURNED TO MAYOR'S OFFICE

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Human Relations Commission, for a term ending as indicated:

NAME

Alejandro Balvaneda
(Chula Vista)
(Reappointment)

TERM ENDING

July 22, 2010

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of reappointment, it is determined that Alejandro Balvaneda is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Human Relations Commission, therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR.
Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-109: Linda Pennington Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-256) ADOPTED AS RESOLUTION R-304155

Commending and thanking Linda Pennington for the contributions she has made to the City of San Diego's City Heights community;

Proclaiming September 9, 2008, to be "Linda Pennington Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-110: Joseph Powell Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-257) ADOPTED AS RESOLUTION R-304156

Commending Joseph Powell for the contribution he has made to the Sheet Metal Workers' Local 206;

Proclaiming September 13, 2008, to be "Joseph Powell Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-111: Dr. Maida Torres-Stanovik Day.

COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-270) ADOPTED AS RESOLUTION R-304157

Proclaiming September 5, 2008, to be "Dr. Maida Torres-Stanovik Day" in recognition of her tremendous contributions during her 36-year career in education, and congratulating San Ysidro High's dedication of the new Dr. Maida Torres-Stanovik Performing Arts Center.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

CONSENT MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-330: Fiscal Year 2009 Homeless Emergency Winter Shelter Program. (Citywide.)

(See Report to the City Council No. 08-130.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-286 Rev.) ADOPTED AS AMENDED AS RESOLUTION R-304158

Finding that a significant number of persons within the City of San Diego are without the ability to obtain shelter, and that the weather conditions during the cold weather season result in a threat to the health and safety of those persons;

Declaring a homeless shelter crisis to exist in the City of San Diego, in accordance with California Government Code Section 8698.2(a)(1);

Approving the FY 2009 Homeless Emergency Winter Shelter Program (Program), contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Comptroller to accept, appropriate, and expend any and all additional contributions, private donations, interest earnings, and other City funds associated with the Program, for the operation of the Program;

Designating the vacant lot located at Island Avenue/16th Street/J Street/15th Street as the temporary site location of the Single Adult Shelter for the FY 2009 Homeless Emergency Winter Shelter Program;

Directing the Mayor, or his designee, to negotiate and execute an agreement and/or other necessary documents to utilize the vacant lot located at Island Avenue/16th Street/J Street/15th Street as the temporary site location of the Single Adult Shelter for the FY 2009 Homeless Emergency Winter Shelter Program;

STAFF SUPPORTING INFORMATION:

In January 2008, the Regional Task Force on the Homeless reported an estimated 4,082 homeless individuals living in the City of San Diego. Of those, only 2,424 were in year-round shelters. Added to the lack of available shelter beds are the weather conditions during the cold weather season that create the potential to adversely impact the health and safety of homeless individuals living outside on a long-term or constant basis. Given the existing shortage of available shelter beds, it is recommended that a homeless shelter crisis be declared in the City of San Diego and that the FY 2009 Homeless Emergency Winter Shelter Program (HEWSP) be adopted to provide shelter services to approximately 400 homeless individuals. The City's designated 120-day period of operation for the FY09 HEWSP will be December 3, 2008, through April 1, 2009. The budget for the FY 2009 HEWSP was approved by City Council on May 6, 2008, (R-303663).

The HEWSP consists of three separate programs: Veterans Shelter, operated by Veterans' Village of San Diego; Family Emergency Shelter, operated by the County of San Diego; and Single Adult Shelter, operated by Alpha Project for the Homeless.

Single Adult Shelter Program Site

In FY 2008, the Single Adult Shelter site was approved at the Tailgate Park location. However, this site was made available as a one-time option. Economic Development Division was once again requested to pursue alternative locations for the operation of the Single Adult Program in FY 2009. With assistance from Centre City Development Corporation (CCDC), a property search to identify potential locations was completed. After identifying and evaluating 13 sites, 12 were eliminated as unsuitable and one (1) was seen as a viable possibility. The following minimum requirements were used to evaluate potential sites for relocation of the Single Adult Program's shelter sprung structure:

- The footprint of the single adults' shelter sprung structure is 60' x 180'. For purposes of conducting shelter operations, an area of 65' (width) x 500' (length), or larger of paved, flat, relatively level space to accommodate the needed infrastructure for sanitation, food service and medical support;

- Proximity (easy walking distance) to public transportation or mass transit;
- Availability of electrical and water hookups;
- Near "core City area"; and
- Minimal disruption to the surrounding area.

The vacant lot located at Island Avenue/16th Street/J Street/15th Street was noted as the only site physically suitable and available to the City for the single adult shelter's sprung structure and corresponding services.

FISCAL CONSIDERATIONS:

There is a net zero impact to the General Fund from this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

FY 2009 Social Services Program Allocation; Council Action: May 6, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Impacts on residents, schools and businesses from additional homeless in the areas of: residents and businesses in East Village community.

Kessler/Anderson

Staff: Scott Kessler - (619) 236-6421
Paul F. Prather – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:20 a.m. – 11:54 a.m.;
2:12 p.m. – 2:45 p.m.)

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION AS AMENDED TO DESIGNATE THE VACANT LOT LOCATED AT ISLAND AVENUE, 16TH STREET, "J" STREET AND 15TH STREET AS THE TEMPORARY SITE, WITH THE COMMITMENT TO STUDY OTHER SHELTER LOCATIONS THROUGHOUT THE CITY. Second by Frye. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-recused.

ITEM-331: Preliminary Bond Items for Arbor Village. (Encanto Community Area. District 4.)

(See San Diego Housing Commission Report No. HAR08-35.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-267) ADOPTED AS RESOLUTION R-304159

Approving the issuance of Bonds by the Housing Authority of the City of San Diego for Arbor Village, pursuant to Section 147(F) of the Internal Revenue Code of 1986;

Declaring that the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

SUPPORTING INFORMATION:

A loan and bonds to finance this development are desirable because the proposed acquisition and rehabilitation would preserve multifamily rental housing and institute rent restrictions to insure affordability of 111 units for 55 years. The first position institutional loan would be capitalized through the issuance of tax-exempt bonds by the Housing Authority. If a bond allocation and funding from the state's Multifamily Housing Program (MHP) are not approved by April 30, 2009, the Housing Commission's loan commitment will expire. A general description of the Multifamily Bond Program and the actions that must be taken by the Housing Authority and by the City Council to initiate and finalize proposed financings are described in Attachment 9 of the Housing Authority Report. These actions do not obligate the Housing Authority to issue bonds.

AFFORDABLE HOUSING IMPACT:

The Housing Commission would record 55-year rent restrictions against the property establishing affordability of 28 one-bedroom units, 24 two-bedroom units, and 33 three-bedroom units to tenants with annual incomes of 50 percent or less of Area Median Income (AMI) and eight one-bedroom units, and 18 three-bedroom units to tenants with incomes at 60 percent of AMI. One unrestricted unit would be occupied by a resident manager. Actual rents would be calculated to meet more stringent tax credit requirements and, as a result, would be affordable to

tenants with incomes as low as 36 percent or less of Area Median Income. The housing component of the City's Consolidated Plan identifies a critical need for rental housing with three and four bedroom apartments suitable for large families. A key element of this proposal is the reconfiguration of two-bedroom apartments to provide an additional 41 three-bedroom units.

FISCAL CONSIDERATIONS:

With an estimated total development cost of \$22,313,723 (\$199,230 per unit), the proposed \$6,676,000 Housing Commission permanent loan (\$59,607 per unit) would leverage \$15,637,723 from other sources.

The developer acquired the property by closing the purchase transaction on August 7, 2008. Permanent financing would consist of a first position amortized loan capitalized with the bond proceeds, a second position residual receipts loan from MHP, the proposed third position residual receipts Housing Commission loan, a deferred loan from the Federal Home Loan Bank's Affordable Housing Program (AHP), four percent tax credits, and a deferred developer fee. Possible funding sources include HOME, Housing Trust Fund, and Inclusionary In-lieu Fees.

Fifty percent of the residual receipts of the project would be used annually to make payments on the Housing Commission and MHP loans proportional to each loan's percentage of participation in the financing. Any unpaid principal and interest would be due and payable upon the earlier of first loan maturity or project refinancing.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This loan recommendation was approved by the Housing Commission on September 19, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The proposed development received the support of the Encanto Community Planning Group on September 15, 2008. The community will receive updates on project progress from the developer.

ENVIRONMENTAL REVIEW:

Should HOME funds constitute a portion of the funding for the project, a final reservation of HOME funds shall occur only upon satisfactory completion of environmental review and receipt by the City of San Diego of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58 of the National Environmental Policy Act (NEPA). The parties agree that the provision of any HOME funds to the project is conditioned on the City of San Diego's determination to proceed with, modify, or cancel the project based on the results of subsequent environmental review under NEPA. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

KEY STAKEHOLDERS:

Stakeholders include LINC as the nonprofit developer, residents of the Community of Encanto, and low-income families in San Diego in need of safe and sanitary affordable rental housing.

Fisher/Vaughan

NOTE: See the Housing Authority Agenda of September 23, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:29 p.m. – 4:13 p.m.)

MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-332: Amendments to the Multifamily Mortgage Revenue Bond Policy. (Citywide.)

(See San Diego Housing Commission Report No. HAR-08-20; and San Diego Housing Commission Report No. BFR-08-01.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-287) NOTED AND FILED

Delegating to the CEO and President of the San Diego Housing Commission the authority to conduct public hearings pursuant to the Tax Equity and Fiscal Responsibility Act, in compliance with Section 147(f) of the Internal Revenue Code, on behalf of the City Council;

Directing the President and CEO of the Housing Commission to prepare a report detailing all public comments received at any TEFRA Hearing and providing such report to the City Council prior to City Council approval of any multifamily housing revenue bond projects.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 7/9/2008, Budget voted 4 to 0 to support and forward the Housing Commission's recommendations related to the Multifamily Housing Revenue Bond Policy to the full City Council, and to include the strike-out version of amendments to the Multifamily Mortgage Revenue Bond Policy. (Councilmembers Faulconer, Atkins, Frye, and Madaffer voted yea. Councilmember Hueso not present.)

SUPPORTING INFORMATION:

The Housing Commission's Multifamily Mortgage Revenue Bond Program (Bond Program) has been utilized since 1982 to support the development of affordable housing in the City of San Diego. Since inception, the Bond Program has issued approximately \$1 billion in tax-exempt bonds to provide below-market rate financing for affordable housing projects. Currently more than \$600 million in outstanding bonds provide financing for 45 housing communities with a total of 9,107 units—5,821 of which are restricted at various levels of affordability.

In connection with the approval of the City's Debt Policy, the Housing Commission was asked to review and update its Bond Program policy. The recommended changes to policy have been formulated based upon staff experience administering the Bond Program, consultation with industry stakeholders and other City finance professionals, and a review of policies and procedures of other local governments that issue housing revenue bonds.

The recommended policy changes fall into two categories: 1) approval process streamlining amendments, and 2) private placement process amendments. The approval process amendments would help staff to preserve affordable housing opportunities and enhance timeliness; allow for additional public participation; maintain oversight of the process by the Housing Commission and Housing Authority/City Council; and comply with all state and federal legal requirements. The changes to the private placement policy would further specify that only truly "sophisticated" investors could purchase unrated bonds; make more capital and better terms/interest rates available to affordable projects; and keep the Bond Program up-to-date with industry best practices and standards set by the City.

Please note that the recommended policy amendments are consistent with the practices of other large municipalities that issue housing revenue bonds, such as San Jose and Los Angeles. The recommended changes would streamline the bond approval process, but would not diminish oversight by the Housing Commission and Housing Authority/City Council or reduce the number of opportunities for members of the public to speak before their elected and appointed officials.

FISCAL CONSIDERATIONS:

There are no fiscal impacts to the Housing Commission, City, or Housing Authority associated with amending the Bond Program policy. Financing costs for individual projects, including compensation for staff efforts in preparing the bonds, are funded through project development budgets.

PREVIOUS HOUSING AUTHORITY AND/OR COMMITTEE ACTIONS:

The Housing Commission's Bond Program policy was originally adopted by the Housing Authority in 1989, and subsequently revised in 1992, 1994, 1996, and 1999. On July 9, 2008, the Budget & Finance Committee recommended that the proposed Bond Program policy amendments be forwarded to the Housing Authority/City Council for consideration.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Housing Commission board approved the proposed amendments on July 9, 2008. The proposed amendments were also discussed with members of the San Diego Housing Federation's policy committee and other interested stakeholders.

ENVIRONMENTAL REVIEW:

This activity is not a project within the meaning of the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(3) of the State CEQA Guidelines. This activity is also exempt from review under the National Environmental Policy Act as no federal funding is involved in this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Service to affordable housing developers, prospective low income tenants, and interested members of the public would be improved by implementation of the proposed Bond Program policy amendments.

Fisher/Vaughan

FILE LOCATION:

MEET

COUNCIL ACTION:

(Time duration: 4:17 p.m. – 4:18 p.m.)

ITEM-333: 4532 Felton Street Vesting Tentative Map, Project No. 97653. Appeal of the Planning Commission's decision approving a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities. (Normal Heights Neighborhood of the Mid-City Communities Plan Area. District 3.)

Matter of the appeal by D. Scott Peters, Sterling Land Services, Inc., Surveyor from the decision of the Planning Commission in approving Vesting Tentative Map to convert seven existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities, on a 0.152-acre site located at 4532 Felton Street in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights Neighborhood of Mid-City Communities Plan Area.

(Continued from the meetings of April 22, 2008, Item 334; May 6, 2008, Item 334; and July 8, 2008, Item 334; last continued at the request of Department Staff, for further review.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions: RETURNED TO THE MAYOR'S OFFICE

Granting or denying the appeal and granting or denying the Vesting Tentative Map 318386 to convert seven existing residential units to condominiums, including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on February 14, 2008, voted 4-1-2 to approve this project.

Ayes: Smiley, Schultz, Ontai, Otsuji
Nays: Griswold
Not present: Naslund
Vacancy: One

The Normal Heights Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Appeal of the Planning Commission's decision to approve a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities, at 4532-34 Felton Street, in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights neighborhood of the Mid-City Communities Plan area. The applicant is appealing the Vesting Tentative Map condition requiring that the physical improvements recommended in the Building Conditions Report be completed prior to the recordation of Final Map.

STAFF RECOMMENDATION:

Deny the appeal and approve Vesting Tentative Map No. 318386, including the waiver of the requirement to underground existing overhead utilities, with the current Vesting Tentative Map conditions requiring implementation of the Building Conditions Report and Landscape Concept Plan, prior to recordation of the Final Map.

EXECUTIVE SUMMARY:

The application for a Vesting Tentative Map and waiver from the requirement to underground existing overhead utilities was deemed complete on March 3, 2006. Although at that time the condominium conversion regulations did not require a Building Conditions Report or landscape improvements, this project is subject to the condominium conversion regulations effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project, with the exception of the parking regulations. Accordingly, this project has been

reviewed against the new regulations. In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within the Land Development Code (Chapter 14, Article 4, Division 5), and have been accepted by staff as conforming to the regulations.

The environmental determination for this project was made on March 15, 2006, and the opportunity to appeal that determination expired on April 5, 2006. This project's environmental determination was not appealed.

On February 14, 2008, the Planning Commission approved the project with a condition (Condition No. 22 of the Vesting Tentative Map Resolution, Attachment 6, page 7 of the Planning Commission Report) requiring building and landscape improvements as identified in the submitted Building Conditions Report and Landscape Plan to be completed prior to recordation of the Final Map.

The applicant has appealed the Planning Commission's decision, citing the following: *"The project was deemed complete on March 4, 2006. The owner/applicant requested a 'Deferral of Private Building Improvements,' the performance of which would be assured by a lien upon the Title/Policy."* This statement is true (although the project was deemed complete on March 3, 2006). The applicant requested the Planning Commission defer these improvements. However, the Planning Commission discussed this issue at length, both in relation to this project, and in general. Commissioner Griswold stated that "a Building Conditions Report created at one period of time becomes irrelevant at a future date," and asked the City Council to consider the Planning Commission's position and recommendations on this issue. Additionally, the Condominium Conversion regulations were amended by City Council on July 5, 2006, making the new requirements applicable to this project.

In several previous appeals in 2007-2008, the City Council adopted a compromise which allows the condominium converter to execute the required physical improvements prior to the sale of the first unit. City staff does not recommend that approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed.

In the latest appeal of the issue regarding the deferring of improvements for condominium conversions, the City Council rejected the compromise and adopted staff's recommendation (Item 335 on the March 4, 2008 docket).

City staff's recommendation is to deny the appeal and approve the project with the approved Vesting Tentative Map conditions.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 14, 2008, the Planning Commission voted 4-1 to approve the project as presented by staff (Griswold opposed).

On March 6, 2007, the Normal Heights Planning Committee voted 12-0-1 to recommend approval of the project with specific recommendations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

4532 Felton Street LLC, Richard W. Mansur, Member (Applicant/Subdivider), Sterling Land Services, Inc. (Surveyor), and the property's tenants.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301, Existing Facilities.

Broughton/Anderson/MS

Staff: Michelle Sokolowski – (619) 446-5278

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:10 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-334: Ocean Park Villas, application of a Tentative Map and Public Right-of-Way Vacation for a 12 unit Tentative Map for residential condominium and the vacation of a dedicated Public Right-of-Way at 5113 Saratoga Avenue. (Ocean Beach Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying, or denying an application of a Tentative Map and Public Right-of-Way Vacation to vacate a portion of an alley to create 12 residential condominium units on a 0.40-acre site at 5113 Saratoga Avenue in the RM-2-4.

(Report to Planning Commission No. PC-08-089/Mitigated Negative Declaration No. 140430/Tentative Map (TM) No. 490361/Public Right-of-Way Vacation No. 490362/Project No.140430.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-272) ADOPTED AS RESOLUTION R-304160

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 140430, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resource Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a Tentative Map and Public Right-of-Way Vacation for the Ocean Park Villas;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Pursuant Public Resource Code Section 2108.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-273) ADOPTED AS RESOLUTION R-304161

Adoption of a Resolution certifying findings supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference with respect to Tentative Map No. 490361 and Public Right-of-Way Vacation No. 490362;

That pursuant to California Government Code Section 66434(g), portions of the unnamed alley, located within the project boundaries as shown in Tentative Map No. 490361, shall be vacated, contingent upon the recordation of the approved final map for the project;

That Tentative Map No. 490361 and Public Right-of-Way Vacation No. 490362, is granted to Abbott & Saratoga, LLC, Applicant/Subdivider and Florez Engineering, subject to the attached conditions which are made a part of this resolution by this reference.

OTHER RECOMMENDATIONS:

Planning Commission on August 7, 2008, voted 5-0-2 to recommend approval.

Ayes: Naslund, Griswold, Ontai, Otsuji, Golba
Not present: Schultz, Smiley

The Ocean Beach Community Planning Board has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

This action is a request for a 12 unit tentative map for residential condominiums and the vacation of a dedicated public right-of-way.

STAFF RECOMMENDATION:

CERTIFY MITIGATED Negative Declaration No. 140430 and **APPROVE** Tentative Map No. 490631 and Public Right-of-Way Vacation No. 490632.

EXECUTIVE SUMMARY:

This project is a Process 5 City Council decision because the proposed tentative map includes a request to vacate dedicated public right-of-way that forms two alley segments adjacent to the property. The project site is located at 5113 Saratoga Avenue in the Ocean Beach Community Plan area (Attachment 1). The Ocean Beach Precise Plan designates the existing 0.40 acre parcel for multi-family residential land use with a medium density of up to 25 dwelling units per acre. The site is currently developed with three apartment buildings and a small vacant commercial building. Two of the apartment buildings were constructed in 1952 and the third building was added to the site in 1953. The buildings contain a total of 15 dwelling units which have not been well maintained. The site is bounded on all sides by public right-of-way including two dedicated streets and the two unnamed alleys. The two alleys proposed to be vacated abut City owned designated parkland (Attachment 2).

Vacating the alleys would provide an additional 3,000 square feet to the premises and allow the development of twelve dwelling units. The alleys are connected and form an "L" shape at the west and south property lines. The alleys were barricaded off to prevent vehicular traffic circulation as cars would attempt to circle the block through the alleys while searching for available beach parking. The barricades were installed in the mid 1980's and do not affect pedestrian access or public safety.

Pedestrian access to the beach is currently provided through the alley right-of-way directly from Abbott Street. The requested vacation would retain the public access because half (10 feet) of the 20-foot wide alley right-of-way would revert to the City of San Diego and be annexed into the existing parkland. No physical change would result in the existing right-of-way with the exception of future landscape improvements deemed acceptable by the Park and Recreation Department.

Staff reviewed the requested public right-of-way vacation and determined that the applicable subdivision findings to create the condominium lots and remove the existing dedication can be affirmed (Attachment 3). Generally, the findings determine that the right-of-way is not being used for what it was intended and is unlikely to be used as such in the future. And, that vacating the right-of-way would benefit the public as a whole. Staff determined that the alleys are not being used as intended and in fact, have been barricaded to intentionally restrict any vehicular access. Staff also concluded that the vacation would benefit the public because the action would result in additional useable parkland for the City without altering the existing coastal access.

The site is located within the State Coastal Deferred Certification Area wherein the State of California retained permit authority over the City's local coastal program. The California Coastal Commission staff will process the future Coastal Development Permit application for the site, and the Coastal Commission will act as the decision maker for that element of the discretionary property entitlement. The City of San Diego is only charged with processing the subdivision actions associated with the project which includes the tentative map and the accompanying public right-of-way vacation action. The project's proposed structures, parking and landscape will be required to comply with all RM-2-4 Zone requirements as well as all other applicable regulations of the Land Development Code. Any deviation to the City's development regulations would require the project to come back into the City's jurisdiction for a Planned Development Permit.

Staff has reviewed the proposed tentative map and accompanying right-of-way vacation and determined the subdivision is consistent with the State Map Act, the City of San Diego Land Development Code and applicable land use policies for this type of development. The Mitigated Negative Declaration was prepared, distributed and finalized in accordance with all applicable CEQA Guidelines and mitigation would be in place to monitor construction and grading activities so as not to disturb any historic resource.

FISCAL CONSIDERATIONS:

There are no fiscal considerations with this project. All costs associated with processing this application are paid for by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 7, 2008, the Planning Commission voted 5-0-2 to recommend the City Council approve the project. On August 6, 2008, the Ocean Beach Planning Board voted 4-3 to approve the project with conditions that are met with the permit conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Dan Weber, Hanalei LLC (Owner) and Janay Kruger, Kruger Development (Applicant).

Broughton/Anderson/PH

LEGAL DESCRIPTION:

The project site is located at 5113 Saratoga Avenue and 1984 Abbott Street, San Diego, CA. 92107, within the Ocean Beach Community.

NOTE: The City of San Diego as Lead Agency under CEQA has completed Mitigated Negative Declaration No. 140430, dated July 1, 2008, including the Mitigation, Monitoring and Reporting Program covering this activity.

Staff: Patrick Hooper – (619) 557-7992
Marianne Greene – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:51 p.m. – 3:26 p.m.)

Testimony in opposition by Paola Tresco, Landry Watson and Joy Sunyata.

Testimony in favor by Steven Lombardi and Tony Struyk.

MOTION BY FAULCONER TO ADOPT THE RESOLUTION IN SUBITEM A TO CERTIFY THE MITIGATED NEGATIVE DECLARATION WITH AFFIRMATIVE FINDINGS; APPROVE THE MITIGATION MONITORING AND REPORTING PROGRAM; AND TO ADOPT THE RESOLUTION IN SUBITEM B TO GRANT THE TENTATIVE MAP AND PUBLIC RIGHT-OF-WAY VACATION, INCLUDING ASSURANCES ON THE ALLEY VACATIONS AND TOT LOT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-335: Point Loma Townhomes, an application requesting amendments to the General Plan, the Peninsula Community Plan and the Local Coastal Program to re-designate the subject site from Industrial (Fishing/Marine-related) to Commercial Land Use. The project also requires a Coastal Development Permit, a Site Development Permit, a Planned Development Permit, and a Tentative Map for the demolition of the existing structures, and the construction of four two-story and one three-story buildings consisting of 47 residential townhomes (condominium units), and three street-level commercial condominium units, above one level of subsurface parking on a 1.65-acre site, and to allow for deviations from the ground floor restriction of the CC-4-2 zone and the Coastal Overlay Zone. (Peninsula Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying, or denying an application for Community Plan & Local Coastal Program Amendment to re-designate a 1.65-acre site from Industrial (Commercial Fishing Marine-Related) to Commercial for a mixed use development, Tentative Map, Coastal Development Permit, and Site Development Permit to allow the demolition of three, two-story commercial structures and associated accessory structures, and the construction of four, two-story and one, three-story buildings consisting of 47 residential townhomes, three commercial units and one level of subsurface parking. Planned Development Permit is also requested to allow the deviation from the ground floor restriction of the CC-4-2 zone [SDMC 131.0540] and allow for residential development on the ground floor and parking on the ground floor in the front half of the lot. The property is located at 1275 Scott Street in the CC-4-2 Zone, Coastal Overlay Zone (Appealable), Coastal Height Limit Overlay Zone, the Community Plan Implementation Overlay Zone (CPIOZ "Type B" Roseville), the First Public Roadway, the Parking Impact Overlay Zone (Beach Impact Area), the North Bay Redevelopment Project Area, within the Peninsula Community Plan and Local Coastal Program Land Use Plan.

The proposed Point Loma Townhomes project is located in the Coastal Zone; therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, **the final decision on this Community Plan and Local Coastal Plan Amendment will be with the California Coastal Commission.** The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Development Services Department, Attention: Laila Iskandar, Development Project Manager, 1222 First Avenue, MS 501, San Diego, CA 92101 before the close of the City Council public hearing. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

(Report to Planning Commission No. PC-08-078/Tentative Map (TM) No. 388142/Coastal Development Permit (CDP) No. 388140/Site Development Permit (SDP) No. 388141/Planned Development Permit (PDP) No. 561515/Mitigated Negative Declaration No. 115083/ MMRP/Amendment to General Plan and the Peninsula Community Plan//Local Coastal Program No. 390318/Project No. 115083.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-195) CONTINUED TO TUESDAY, OCTOBER 7, 2008

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 115083, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resource Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval Community Plan Amendment, Local Coastal Program Amendment, Tentative Map, Coastal Development Permit, Site Development Permit and Planned Development Permit for Point Loma Townhomes;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved;

That pursuant to California Pursuant Public Resource Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-196) CONTINUED TO TUESDAY, OCTOBER 7, 2008

Adoption of a Resolution amending the Peninsula Community Plan and Local Coastal Program, a copy of which is on file in the Office of the City Clerks;

That the Council adopts an amendment to the General Plan for the City of San Diego to incorporate the above amendment plan;

That this project is located in the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, these amendments will not become effective in the Coastal Zone until the Coastal Commission unconditionally certifies the Local Coastal Program amendment.

Subitem-C: (R-2009-197) CONTINUED TO TUESDAY, OCTOBER 7, 2008

Adoption of a Resolution certifying findings supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference with respect to Tentative Map No. 388142;

That Tentative Map No. 388142 is granted to Dean Wilson, Trustee of the Dean Wilson Living Trust and Axiom Shelter Island, LLC, Applicants/Subdividers, and Lisa M. Leweck, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (R-2009-198)

CONTINUED TO TUESDAY, OCTOBER 7, 2008

Adoption of a Resolution certifying findings supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference with respect to Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141, Planned Development Permit (PDP) No. 561515;

That the recommendation of the Planning Commission is sustained, and Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141 and Planned Development Permit (PDP) No. 561515 are granted to Dean Wilson, Trustee Of The Dean Wilson Living Trust and Axiom Shelter Island LLC, Owners/Permittees, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

OTHER RECOMMENDATIONS:

Planning Commission on August 7, 2008, voted 5-0-2 to recommend approval.

Ayes: Naslund, Griswold, Ontai, Otsuji, Golba
Not present: Schultz, Smiley

The Peninsula Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the Point Loma Townhomes project consisting of a mixed-use condominium development (47 for-sale residential units, 3 commercial units) located at 1275 Scott Street, within the Peninsula Community Planning Area.

STAFF RECOMMENDATION:

1. ADOPT resolution and CERTIFY Mitigated Negative Declaration No. 115083, and ADOPT the Mitigation Monitoring and Reporting Program;
2. ADOPT resolution amending the General Plan, and the Peninsula Community Plan and the Local Coastal Program No. 390318; and

ADOPT resolutions and APPROVE Coastal Development Permit No. 388140, Site Development Permit No. 388141, Planned Development Permit No. 561515, and Tentative Map No. 388142.

EXECUTIVE SUMMARY:

The Point Loma Townhomes project proposes an amendment to the Peninsula Community Plan and Local Coastal Program to redesignate the subject site from Industrial (fishing/marine-related) to Commercial, which would include the following: the demolition of three existing commercial structures and associated accessory structures, and the construction of a new mixed-use condominium development consisting of 47 residential town homes (condominium units), and three street-level commercial condominium units, above one level of subterranean parking. The 1.65-acre site is located at 1275 Scott Street in the CC-4-2 zone (Commercial – Community), within the Roseville/Shelter Island area of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area, and the North Bay Redevelopment Project Area.

The project site was designated as local historical landmark no. 855 on February 28, 2008. Only the site was designated meaning the historical designation excluded all structures on the property. The historical significance of the site will remain with the proposed project. The proposed project will include a plaque and an interpretive story board commemorating the Kettenburg family's contribution to the nautical history of Shelter Island as recommended by the Historic Resource Board.

The Coastal Development Permit is required to allow the development in the Appealable Area of the Coastal Overlay Zone; the Site Development Permit is required for development within the "Type B" area of the Community Plan Implementation Overlay Zone; and for substantial alteration or demolition of a designated historical resource. The Planned Development Permit is for deviations to allow residential use on the ground floor and residential parking in the front half of the lot, both of which are normally restricted in the CC-4-2 zone. And lastly, the Tentative Map is for a subdivision to permit the units to be constructed as condominiums (47 residential units and 3 commercial units.)

The proposed project and the request for an amendment to the Peninsula Community Plan and Local Coastal Program from Industrial (fishing/marine-related) to Commercial is in conformance with all applicable sections of the San Diego Municipal Code regarding the CC-4-2 Zone, as allowed through a Planned Development Permit, and would make the land use and implementing zoning consistent. Staff reviewed the requested deviations and determined they are minor in scope and contribute to a better overall project design.

FISCAL CONSIDERATIONS:

None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 7, 2008, the City of San Diego Planning Commission recommended that the City Council certify the Mitigated Negative Declaration No. 115083, adopt the Mitigation Monitoring and Reporting Program, and recommended that the City Council approve Amendments to the General Plan and the Peninsula Community Plan and Local Coastal Program No. 390318; Coastal Development Permit No. 388140, Site Development Permit No. 388141, Planned Development Permit No. 561515; and Tentative Map No. 388142 as presented in report No. PC-08-078, and requested that the Historical Resource Board recommendation be adopted thru the Mitigation Measures and Findings associated with the Site Development Permit related to the Designated Historical Resource.

The motion made by Commissioner Griswold, seconded by Commissioner Ontai passed by a vote of 5-0-2, with Commissioner Schultz and Smiley not present.

On February 21, 2008, the Peninsula Community Planning Group voted 6-4-1 to recommend approval of the project as proposed.

KEY STAKEHOLDERS:

Owner: Dean Wilson Living Trust and Axiom Shelter Island, LLC

Applicant: Rand Wassem, Prism Investments, Inc.

Broughton/Anderson/LI

LEGAL DESCRIPTION:

The project is located at that portion of Lot 1 in Block 28, and Lots 1-12 in Block 29, together with that portion of Shafter Street as closed to public use lying between said Blocks 28 and 29, Roseville Resubdivision, Map 4956.

NOTE: The City of San Diego as Lead Agency under CEQA has completed Mitigated Negative Declaration No. 115083, dated July 2, 2008, including the Mitigation, Monitoring and Reporting Program covering this activity.

Staff: Laila Iskandar – (619) 446-5297

Marianne Greene– Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:12 p.m.)

Testimony in favor by Christy Schisler.

MOTION BY FAULCONER TO CONTINUE TO TUESDAY, OCTOBER 7, 2008, AS REQUESTED BY THE APPLICANT, RAND WASSEM, FOR FULL COUNCIL.

Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-336: Flo Jo Elementary School Public Right-of-Way and Easement Vacation, Project No. 5925. A request for Right-of-Way Vacation of portions of Van Dyke Avenue, an unnamed alley, and easements and approval of a Parcel Map associated with Flo Jo Elementary School. The school site is located east of Interstate 15, north of Thorn Street, south of Myrtle Avenue, between 42nd Street and 43rd Street. (City Heights Community of Mid-City Communities Plan Area. District 3.)

Matter of approving, conditionally approving, modifying or denying a request for Right-of-Way Vacation of portions of Van Dyke Avenue, an unnamed alley and easements and approval of a Parcel Map associated with Flo Jo Elementary School. All costs paid by the applicant. ROW no longer required by the City. The school site is located east of Interstate 15, north of Thorn Street, south of Myrtle Avenue, between 42nd Street and 43rd Street, in the Mid-City Communities Plan Area.

(Public Right-of-Way Vacation No. 9782/Easement Vacation No. 522764/Parcel Map No. 522765.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-127 Cor. Copy) ADOPTED AS RESOLUTION R-304162

Adoption of a Resolution approving a public right-of-way and easement vacation for Flo Jo Elementary School.

OTHER RECOMMENDATIONS:

The City Heights Area Planning Committee on April 4, 2005, voted 10-1-0 in favor of the right-of-way and easement vacations.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Approve the vacation of a portion of Van Dyke Avenue and an unnamed alley between Thorn Street and Myrtle Avenue, vacation of an easement for public street purposes, and approval of and associated parcel map within the Mid-City Communities Plan area.

STAFF RECOMMENDATION:

Approve Public Right-of-Way Vacation No. 9782, Easement Vacation No. 522764, and Parcel Map No. 522765.

EXECUTIVE SUMMARY:

The school site is located east of Interstate 15, north of Thorn Street, south of Myrtle Avenue, between 42nd Street and 43rd Street, in the Mid-City Communities Plan Area. The San Diego Unified School District has requested the vacations of the public right-of-way and associated easement to allow for construction of Flo Jo Elementary School at this location. This public right-of-way and Easement are no longer required.

To approve the requested vacations, the following four findings must be made:

1. There is no present or prospective use for the purpose for which the Right-of-Way was originally acquired.
2. The public will benefit from the Vacation through improved utilization of land.
3. The Vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the Right-of-Way was originally acquired will not be detrimentally affected by this vacation.

City Staff has confirmed that there is no present or prospective use for the right-of-way or easement for which they were originally acquired, and that no public use of a like nature is anticipated. The vacations would allow for construction of a school in an established neighborhood. In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land. The Mid-City Communities Plan identifies this area for an elementary school. As this proposed vacation would support the school at this location, the project is consistent with the Community Plan. City Staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

FISCAL CONSIDERATIONS:

No cost to the City. The applicant has deposited sufficient funds to cover associated project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On April 4, 2005, the City Heights Area Planning Committee voted 10-1-0 in favor of the right-of-way and easement vacations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

San Diego Unified School District.

Anderson/Broughton

NOTE: This activity is covered under Final Edison/Hamilton/Parks Area Elementary School Environmental Impact Report SCH No. 2000101040, dated October 2002, certified by Board of Education on April 13, 2004, is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Section 15060(c)(3) and 15378(c).

Staff: Morris Dye – (619) 446-5201
Marianne Greene – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: F-10291 (03)

COUNCIL ACTION: (Time duration: 4:14 p.m. – 4:15 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-337: Normal Heights Elementary School Public Right-of-Way and Easement Vacations, Project No. 6096. Request for Right-of-Way Vacation of portions of Ward Road, 38th Street, and sewer and slope easements, and approval of a Parcel Map associated with Normal Heights Elementary School. The school site is located east of Cherokee Avenue and west of Interstate 15, and south of Adams Avenue. (Normal Heights Community Plan Area of the Mid-City Communities Plan Area. District 3.)

Matter of approving, conditionally approving, modifying or denying a request for Right-of-Way Vacation of portions of Ward Road, 38th Street, and sewer and slope easements, and approval of a Parcel Map associated with Normal Heights Elementary School. All costs paid by the applicant. ROW no longer required by the City. The school site is located east of Cherokee Avenue and west of Interstate 15, and south of Adams Avenue, in the Mid-City/Normal Heights Community Plan Area.

(Public Right-of-Way Vacation No. 10147/Easement Vacation No. 525006/Parcel Map No. 382871.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-128 Cor. Copy) ADOPTED AS RESOLUTION R-304163

Adoption of a Resolution approving a public right-of-way and easement vacation for Normal Heights Elementary School.

OTHER RECOMMENDATIONS:

The Normal Heights Community Planning Committee on November 2, 2004, voted 11-0-1 in favor of the right-of-way and easement vacations.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approve the vacation of portions of Ward Road, 38th Street, the vacation of sewer and slope easements, and approve associated Parcel Map within the Mid-City/Normal Heights Community Plan Area.

STAFF RECOMMENDATION:

Approve Public Right-of-Way Vacation No. 10147, and Easement Vacation No. 525006 and Parcel Map No. 382871.

EXECUTIVE SUMMARY:

The school site is located east of Cherokee Avenue and west of Interstate 15, and south of Adams Avenue, in the Mid-City/Normal Heights Community Plan Area. The San Diego Unified School District has requested the vacations of the public Rights-of-Way and associated easements to allow for the construction of Normal Heights Elementary School at this location. These public rights-of-way and easements are no longer required.

To approve the requested vacations, the following four findings must be made:

1. There is no present or prospective use for the purpose for which the right-of-way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City Staff has confirmed that there is no present or prospective use for the right-of-way or easements for which they were originally acquired, and that no public use of a like nature is anticipated. The vacations would allow for construction of a school in an established neighborhood. In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land. The Mid-City Communities Plan identifies this area for an elementary school. As this proposed vacation would support the school at this location, the project is consistent with the

community plan. City Staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

FISCAL CONSIDERATIONS:

No cost to the City. The applicant has deposited sufficient funds to cover associated project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 2, 2004, the Normal Heights Community Planning Committee voted 11-0-1 in favor of the Right-of-Way and Easement Vacations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

San Diego Unified School District

Anderson/Broughton

NOTE: The proposed street vacations were analyzed in the Final Environmental Impact Report for the Adams/Franklin Area Elementary School, dated November, 2002, and certified by Board of Education on December 10, 2002. The activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the preciously approved project, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Section 15060(c)(3) and 15378(c).

Staff: Morris Dye – (619) 446-5201
Marianne Greene – Deputy City Attorney

FILE LOCATION: F-10292 (03)

COUNCIL ACTION: (Time duration: 4:16 p.m. – 4:17 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

000200

**Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, September 23, 2008**

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REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council Member Young at 4:55 p.m. in honor of the memory of:

Ms. Evelyn Clarke as requested by Council Member Atkins.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:46 p.m. – 4:55 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

000201

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, SEPTEMBER 22, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council Member Young at 2:04 p.m. Council Member Young recessed the meeting at 4:04 p.m. for the purpose of a break. Council Member Young reconvened the meeting at 4:11 p.m. with Council President Peters, Council Member Maienschein, and Council President Pro Tem Madaffer not present. The meeting was adjourned by Council Member Young at 5:37 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-not present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-not present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-not present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Father Tom Phillips of St. Dunstan's Episcopal Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Hueso.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 Lexington Insurance Company v. City of San Diego
San Diego Superior Court Case No. 37-2008-00075157-CU-CI-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 23, 2008

DCA Assigned: B. Hsu

Plaintiff claims damages as a result of flooding at its insured, the San Diego Unified School District's property at La Jolla High School on January 9, 2005, following a City water main rupture. The City Attorney will discuss possible settlement of the case in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:36 p.m. - 5:36 p.m.)

Council Member Young closed the hearing.

CS-2 Linda Woodbury v. City of San Diego, et al.

San Diego Superior Court Case No. 37-2007-00068277-CU-WT-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 23, 2008

DCA Assigned: K. Phillips

Plaintiff, a former City of San Diego employee, sued the City for wrongful termination including failure to accommodate her disability and retaliation for her numerous complaints about her lack of accommodations. In Closed Session, the City Attorney will present a settlement proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:36 p.m. - 5:36 p.m.)

Council Member Young closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-3 Agency Negotiator: Steven Berliner, Scott Chadwick, Thom Harpole,
Alan Hersh, and Jessica Falk Michelli

Employee Organizations: Municipal Employees Association, AFSCME Local 127
AFL-CIO, Local 145 International Association of
Firefighters

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 23, 2008

DCAs Assigned: A. Hersh/J. Falk Michelli

Conference with Labor Negotiators regarding relationship between BPR and Managed
Competition in light of recent PERB decision.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:36 p.m. - 5:36 p.m.)

Council Member Young closed the hearing.

ITEM-150: Equal Opportunity Contracting Program-Final SCOPE Recommendations/
Bi-Annual Statistics.

(See Report from the City Attorney dated 7/3/2008; Administration Department's
7/9/2008, Power Point; and Report to the City Council No. 08-099.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-289) ADOPTED AS AMENDED AS RESOLUTION R-304143

Authorizing and accepting staff's final recommendations to implement changes to SCOPE without the bonus point element;

Adopting the proposed Council Policy for Equal Opportunity Contracting No. 300-_____;

Instructing the City Clerk to add Council Policy 300-_____ titled "Equal Opportunity Contracting" to the Council Policy Manual.

PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S RECOMMENDATION:

On 7/9/2008, PS&NS voted 3 to 0 to refer the item to the City Council. Councilmember Faulconer recommended that the Administration Department continue to work to resolve the few remaining terms in dispute prior to adoption by Council. Chair Young asked Ms. Fischle-Faulk to return to PS&NS in September with a report regarding what additional resources might be needed by the EOC Program. (Councilmembers Faulconer, Young, and Maienschein voted yea. Councilmember Hueso not present.)

SUPPORTING INFORMATION:

At the Public Safety and Neighborhood Services Committee meeting of July 9, 2008, staff presented an Equal Opportunity Contracting Program Update, final recommendations for improving SCOPE and revisions to Council Policy 300-10. The Committee accepted staff's recommendations, referred the item to City Council and Councilmember Faulconer recommended that staff continue to work to resolve the few remaining terms disputed by the Associated General Contractors of America (AGC) prior to adoption by Council.

Based on feedback received at an August 27, 2008, stakeholders meeting and input from Consultant Franklin Lee, the "bonus point" element of SCOPE is not being brought forward for consideration at this time. Additional discussion is required to further refine the parameters of the program, develop programmatic definitions and outline an implementation strategy. Several meetings will be held to prepare a final recommendation.

An updated statistical report for construction projects that identifies the gender and ethnicity of the "Not Indicated" totals included in the July 9, 2008, PS&NS Report. Letters were sent to prime contractors requesting the missing information. The majority of contractors responded to our request. However, a small number of contractors were unwilling to either obtain or provide this information. The Bidders Registration System has been redesigned to make ethnicity and gender required fields to address this issue. In addition, we will continue to explore options (including replacing CIMS) to further ensure data accuracy and an effective interface with the City's ERP System. Additional outreach activities have been included as well. The purpose of our outreach is primarily to broaden the base of potential bidders on City contracts by: identifying potential bidders, encourage potential bidders to participate in City contracting opportunities, advising organizations of City requirements, and encourage businesses to register with the City and to apply for certification status, if appropriate. Staff recently met with representatives of the Architect and Engineering Associations to discuss how to improve our ability to proactively recruit and retain a diverse business base to compete and be awarded contracts with the City and assist with the recruitment and retention of a diverse workforce. Quarterly meetings will be established to develop a strategic plan beginning in late fall.

To address Councilmember Faulconer's recommendation, staff met with Jim Ryan, Executive Vice President, AGC and Brad Barnham, Vice-President, Governmental Relations, AGC to discuss their three areas of concern which included:

1. Requiring the first five apparent low bidders to submit SCOPE documentation - The current program requires the first three apparent low bidders to submit documentation and consultant Franklin Lee recommended all bidders submit documentation. Staff's recommendation to require the first five apparent low bidders to submit documentation represents a compromise. AGC representatives indicated they do not support any changes to the existing requirement of the first three apparent low bidders. Their position did not change at our meeting. Staff maintains the recommendation for the first five apparent low bidders to submit the documentation to ensure the integrity of good faith efforts/documentation. As an additional compromise, staff proposes requiring the first five apparent low bidders to submit SCOPE documentation for contracts valued at \$1 million or greater.

2. Requiring the submittal of SCOPE documentation within three working days until Bidders Registration Program is able to facilitate automatic notices. The current program requires documentation to be submitted within five working days and consultant Franklin Lee recommended requiring documentation submittal within one day once Bidders Registration Program is able to facilitate automatic notices. Staff's recommendation of requiring documentation within three working days until Bidders Registration Program is able to facilitate automatic notices represents a more rigorous immediate requirement and a compromise on the timeframe after the Bidders Registration Program facilitates automatic notices. AGC representatives indicated they do not support any changes to the existing requirement of documentation submittal within five working days. Their position did not change at our meeting. Based on an earlier discussion with a contractor who bids on City projects, staff is willing to compromise by requiring the documentation submittal within two working days once the Bidders Registration is able to facilitate automatic notices.
3. Provision for EOCP to authorize direct payment to subcontractors if retention is withheld solely for purposes of contractor failure to submit their Final Summary Report - While this was initially an issue, AGC representatives have indicated with the clarification provided they have no issues with this requirement. Staff recommends the City Attorney review and formally respond to consultant Franklin Lee's clarified recommendation.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Public Safety and Neighborhood Services Committee accepted staff's recommendations, referred the item to City Council at their July 9, 2008, meeting with Councilmember Faulconer's recommendation that staff continue to work to resolve the few remaining terms disputed by the Associated General Contractors of America (AGC) prior to adoption by Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

See Page 2 of Report No. 08-099.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include members of the business community and San Diego taxpayers.

Fischle-Faulk/Goldstone

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:07 p.m. – 4:02 p.m.)

MOTION BY HUESO TO ADOPT STAFF'S RECOMMENDATION WITH THE REQUIREMENT THAT ALL WAIVERS EXCEPT THOSE BASED ON AN EMERGENCY MUST COME BEFORE COUNCIL FOR APPROVAL; REFER THE WAIVER PROVISIONS TO THE INDEPENDENT BUDGET ANALYST AND EQUAL OPPORTUNITY CONTRACT DEPARTMENT TO COME BACK TO PUBLIC SAFETY & NEIGHBORHOOD SERVICES AND TO COUNCIL FOR FINAL APPROVAL. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

- ITEM-200: Hanalei Hotel. Appeal of the Environmental Determination, requesting a Site Development Permit and Planned Development Permit to add a 10,000 square-foot meeting facility to the existing hotel. (Mission Valley Community Area, District 6.)

Matter of the appeal by Randy Berkman, River Valley Preservation Project (RUPP), Lynn Mulholland, Mission Valley Community Council (MVCC), James A. Pough, San Diego Audubon Society and Evelyn Shively, Sierra Club, of the Planning Commission's decision in approving an application for a Site Development Permit to construct an approximately 10,000 square-foot addition for an exhibit hall on the existing parking area of the Hanalei Hotel at 2270 Hotel Circle.

(See Report to Planning Commission No. PC-08-088/Mitigated Negative Declaration No. 114212/Site Development Permit No. 449629/Planned Development Permit No. 559063/Project No. 114212.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-) CONTINUED TO MONDAY, OCTOBER 6, 2008

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission certifying Mitigated Negative Declaration (MND) No. 114212, and adopting Mitigation Monitoring and Reporting Program (MMRP);

Certifying that the information contained in Mitigated Negative Declaration No. 114212, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administrative Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City of San Diego City Council;

That the City of San Diego City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Negative Declaration is hereby approved;

That pursuant to California Public Resource Code, Section 21081.6, the City of San Diego City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

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Subitem-B: (R-2009-) CONTINUED TO MONDAY, OCTOBER 6, 2008

Granting or denying the appeal and granting or denying Site Development Permit (SDP) No. 449629, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

Subitem-C: (R-2009-) CONTINUED TO MONDAY, OCTOBER 6, 2008

Granting or denying the appeal and granting or denying Planned Development Permit (PDP) No. 559063, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 5-0-2 to deny.

Ayes: Schultz, Naslund, Ontai, Otsuji, Golba
Not present: Griswold, Smiley

The Mission Valley Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

This action is an appeal of the environmental determination (Mitigated Negative Declaration No. 114212). The environmental document was prepared for the 10,000 square foot expansion of a conference facility to the Hanalei Hotel project.

STAFF RECOMMENDATION:

DENY the appeal and **CERTIFY** MND No. 114212.

EXECUTIVE SUMMARY:

This item is an appeal of the environmental determination to prepare a Mitigated Negative Declaration (MND No. 114212) and accompanying Mitigation, Monitoring and Reporting Program for a conference room addition to the existing Hanalei Hotel. All other administrative appeals have been exhausted. The Hearing Officer approved the project and the Planning Commission upheld that decision by unanimously denying the subsequent appeal.

The Hanalei Hotel is requesting a 10,000 square foot expansion of their existing conference facility. The hotel property is located at 2270 Hotel Circle North in the Mission Valley Community Plan area (Attachment 1). The site is directly adjacent to both the Interstate 8 Freeway on the south and the San Diego River on the north. The 9.7 acre site is surrounded by commercial and visitor uses to the east and west within the Valley. The project requires a Site Development Permit because the property is within the floodplain which is identified in the Land Development Code as a Special Flood Hazard Area. The floodplain includes the floodway and the floodway fringe. The proposed addition is within the floodway fringe. The Land Development Code defines the floodplain as Environmentally Sensitive Lands (ESL) and establishes the applicable development regulations and entitlement process for development within the flood plain. The project also requires a Planned Development Permit to implement the applicable provisions of the Atlas Specific Plan. The proposed addition was reviewed by staff in accordance with State and Local regulations, and staff determined the addition to be a minor improvement to the previously developed site.

The appeal of the environmental determination is generally based on the consistency of the project with the Atlas Specific Plan and asserts that significant environmental impacts have not been addressed in the Mitigated Negative Declaration (Attachment 4). The appeal contends required improvements mandated by the Specific Plan have not been implemented. These improvements include the 100-year channelization of the adjacent San Diego River and a requirement that 75% of the project's required off-street parking is located within a parking structure. The appeal also contends that proposed surface parking should not be permitted within the 30-foot river buffer.

The appeal further states that the project reviews should have required a traffic study, a site specific cultural resource study and a floodwater displacement study. And lastly, the appeal contends that the project is inconsistent with City Council Policy 600-14: Development within Areas of Special Flood Hazards.

Staff disagrees with the appeal arguments and believes Mitigated Negative Declaration No. 114212 considered all potential impacts to the environment and that the Mitigation, Monitoring and Reporting Program (MMRP) provide the sufficient mitigation for the proposed project. Staff agrees with both FEMA and the State Water Resource Board, which considers river channelization an outdated method of flood protection. Channelization projects identified within the Atlas Plan will not be implemented with other Mission Valley projects in the future. Regarding the issue of structured parking, staff concluded there is no reasonable nexus between a relatively small improvement (10,000 square feet or 4% of the existing floor area) and the requirement to build a 400-car parking structure. Also, since no rooms are being added to the hotel, the intensity of the land use on the site is not increasing. As for parking within the 30-foot river buffer, staff considers that as an existing condition. The parking area was constructed in the existing configuration as part of the hotel expansion in 1974, while the buffer was placed over the site in 1988, when the Atlas Plan was adopted. No new pavement is proposed with this application and the property owner can re-stripe the existing pavement at will with no permit requirements.

Staff determined that no additional environmental studies were required for traffic, cultural resources and flood displacement as the appeal contends because the thresholds requiring such studies were not met with the minor addition. And finally, staff determined that the proposed noise mitigation outlined within the MND is adequate in that it was developed in coordination with the California Department of Fish and Game and the U.S. Fish and Wildlife Service pursuant to the 1997 Implementing Agreement between the City of San Diego and those agencies.

Lastly, staff determined that the proposed project is consistent with Council Policy 600-14. The policy does not restrict development in the Special Flood Hazard Areas, which includes the floodway fringe, but rather seeks to promote the public health, safety and general welfare, and to minimize public and private losses due to flooding and flood conditions. The project has been reviewed and conditioned for compliance with all FEMA standards for development within the flood plain and no deviations to the Environmentally Sensitive Lands Regulations of the Land Development Code are requested as a part of the project.

The Mitigated Negative Declaration was prepared, distributed and finalized in accordance with all applicable CEQA guidelines and City of San Diego land use regulations and policies. The environmental analysis focused on all potential impacts the proposed project might have on the surrounding community and determined the appropriate mitigation to reduce potential impacts below a level of significance.

FISCAL CONSIDERATIONS:

There are no fiscal considerations with this project. All costs associated with processing this application are paid for by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On May 28, 2008, the Hearing Officer approved the project. That decision was appealed and on July 24, 2008, the Planning Commission voted 5-0-2 (Commissioners Griswold and Smiley absent) to deny the appeal and approve the project. On August 1, 2007, the Mission Valley Unified Planning Committee voted 15-1-0 to approve the proposed project as conditioned by the staff.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Dan Weber, Hanalei LLC (Owner) and Janay Kruger, Kruger Development (Applicant)

Broughton/Anderson/PH

LEGAL DESCRIPTION:

The project site is located at 2270 Hotel Circle North in the MVPD-MV/-M/SP and the OF-1-1 Zones of within Atlas Specific Plan and the Mission Valley Community Plan Area.

Staff: Patrick Hooper – (619) 557-7992

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:13 p.m. - 5:36 p.m.)

Testimony in favor of the appeal by Randy Berkman, Ellen Shively, Lynn Mulholland, and Barbara Winton.

Testimony in opposition of the appeal by Dan Weber and Joseph Wong.

Motion by Faulconer to continue to Monday, October 6, 2008, for further review.

Second by Young. Failed. Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.

MOTION BY FRYE TO CONTINUE TO MONDAY, OCTOBER 6, 2008, TO ALLOW APPELLANT TO BE PRESENT. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-250: Notice of Pending Final Map Approval – 7064 Fulton Street.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “7064 Fulton Street” (T.M. No. 485209/PTS No. 156753), located on the north side of Fulton Street west of Linda Vista Road in the Linda Vista Community Plan Area in Council District 6, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

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REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council Member Young at 5:37 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:37 p.m. – 5:37 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 16, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:06 a.m. The meeting was recessed by Council President Peters at 11:41 a.m. to convene into Closed Session and thereafter reconvene the regular Council Meeting at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:04 p.m. with Council Member Madaffer and Council Member Hueso not present. Council President Peters recessed the meeting at 4:29 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:35 p.m. with Council Member Young not present. Council President Peters recessed the meeting at 5:19 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:24 p.m. with Council President Pro Tem Madaffer not present. Council President Peters recessed the meeting at 6:36 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 6:37 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:39 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 6:45 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:47 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:57 p.m. with Council Member Maienschein and Council President Pro Tem Madaffer not present. The meeting was adjourned by Council President Peters at 8:28 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present

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(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:34 a.m.)

PUBLIC COMMENT-2:

Joey Rocano commented on the 301(h) waiver.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. - 10:37 a.m.)

PUBLIC COMMENT-3:

Rudy Reyes commented on medical marijuana.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:41 a.m.)

PUBLIC COMMENT-4:

Phil Hart commented on the Southeastern Economic Development Corporation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:43 a.m.)

PUBLIC COMMENT-5:

Izean Rim Jr. commented public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. - 10:45 a.m.)

PUBLIC COMMENT-6:

Al Strohlein commented on lost City records.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:48 a.m.)

PUBLIC COMMENT-7:

Mignon Scherer commented on water in California.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. - 10:52 a.m.)

PUBLIC COMMENT-8:

Jarvis Ross commented on government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. - 10:54 a.m.)

PUBLIC COMMENT-9:

Joy Sunyata commented on a state of emergency.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:57 a.m.)

PUBLIC COMMENT-10:

Elinor Rector commented on the Bible.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:58 a.m.)

PUBLIC COMMENT-11:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. - 11:03 a.m.)

PUBLIC COMMENT-12:

Joy Amdemikel commented on the homeless.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. - 11:06 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED

Approval of Council Minutes for the meetings of:

07/21/2008
07/22/2008
07/28/2008
07/29/2008
08/04/2008 – Adjourned
08/05/2008 – Adjourned
08/11/2008 – Adjourned
08/12/2008 – Special Meeting
08/18/2008 – Adjourned
08/19/2008 – Adjourned
08/25/2008 – Adjourned
08/26/2008 – Adjourned
09/01/2008 – Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:15 a.m.)

MOTION BY HUESO TO APPROVE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Unite in Peace Day.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-252) ADOPTED AS RESOLUTION R-304117

Recognizing Unite in Peace for its leadership in community service and commending the organization for its dedication and tireless work for those who have been affected by adversity and tragedy;

Proclaiming September 16, 2008, to be "Unite in Peace Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:04 a.m. – 10:09 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-32: Kerry Kirby Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-245) ADOPTED AS RESOLUTION R-304118

Proclaiming September 16, 2008, as "Kerry Kirby Day" in the City of San Diego in recognition of the many community services she has provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:10 a.m. - 10:14 a.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-50: Second Amendment to the Agreement with T.Y. Lin International for the West Mission Bay Drive Bridge over San Diego River Replacement Project. (Mission Bay Park, Midway-Pacific Highway Corridor, and Peninsula Community Areas. Districts 2 and 6.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 54. (Council voted 8-0):

(O-2009-5) ADOPTED AS ORDINANCE O-19784 (New Series)

Authorizing the Mayor to execute, for and on behalf of the City, a Second Amendment to the Agreement with T.Y. Lin International in an amount not to exceed \$2,017,859, for professional services for the West Mission Bay Drive Bridge over San Diego River Replacement Project (Project), together with any reasonably necessary modifications or amendments thereto which do not increase the project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$2,017,859, of which \$2,000,000 is available from Fund 38993, Highway Bridge Program and \$17,859 is available from Fund 30300, TransNet for CIP-52-643.0, West Mission Bay Drive Bridge over San Diego River Replacement Project for the purpose of the Second Amendment to the Agreement with T.Y. Lin International;

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Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this activity is not a "project" and is therefore not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(2).

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. -- 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-51: Fifth Amendment to Agreement with Boyle Engineering Corporation for Design Services for the La Jolla Village Drive/Interstate 805 Interchange Ramps Project. (University Community Area. Districts 1, 5, and 7.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 55. (Council voted 8-0):

(O-2009-20) ADOPTED AS ORDINANCE O-19785 (New Series)

Authorizing the Mayor, or his designee, to execute a Fifth Amendment to the Agreement with Boyle Engineering Corporation for Design Services for CIP-52-485.0, La Jolla Villa Drive/Interstate 805 Interchange Ramps Project for an amount not to exceed \$809,158, under the terms and conditions set forth in the Amendment, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$809,158 from Fund No. 79001, North University City Facilities Benefit Assessment, CIP-52-485.0, La Jolla Village Drive/Interstate 805 Interchange Ramps Project for the purpose of executing this Fifth Amendment to the Agreement;

Declaring that this activity is not a project and is therefore not subject to California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15060(c)(3);

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to return excess funds, if any, to the appropriate reserves.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-52: Contract Change Order No. 4 with Habitat Restoration Sciences for the San Diego Wetland Creation Project – Phase B. (Mission Valley Community Area. District 6.)

(See Metropolitan Wastewater Department's 5/21/2008, Executive Summary Sheet.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 56. (Council voted 8-0):

(O-2009-12) ADOPTED AS ORDINANCE O-19786 (New Series)

Approving Contract Change Order No. 4, issued in connection with the contract between the City and Habitat Restoration Sciences, said contract having been filed in the Office of the City Clerk as Document No. C-13428, together with the changes set forth, amounting to an extension of time of 3.5 years (1,245 days) on the project, and authorizing the Mayor, or his designee to execute the Change Order;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3). The activity is a subsequent discretionary approval of a project which was adequately addressed under Environmental Impact Report PTS No. 6020, and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: CONT-HABITAT RESTORATION SCIENCES

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-53: Exempting Six (6) Program Coordinator Positions in the Debt Management Department from the Classified Service.

(See memoranda from Hadi Dehghani dated 7/17/2008 and 6/27/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 57. (Council voted 8-0):

(O-2009-16) ADOPTED AS ORDINANCE O-19787 (New Series)

Exempting from the Classified Service six (6) Debt Management Program Coordinator positions and declaring them to be in the Unclassified Service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, having received the review and comment of the Civil Service Commission on July 3, 2008, as meeting the Charter criterion for exemption from the Classified Service, and having considered and reviewed the memorandum thereon from the Personnel Director to the Council President and City Council dated July 17, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-54: Exempting One (1) Program Manager Position from the Classified Service.

(See memoranda from Hadi Dehghani dated 7/14/2008 and 6/27/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 58. (Council voted 8-0):

(O-2009-8) ADOPTED AS ORDINANCE O-19788 (New Series)

Exempting from the Classified Service the position of Administrative Services Program Manager, reporting to the Park and Recreation Assistant Director, and declaring it to be in the Unclassified Service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, after having received the review and comment by the Civil Service Commission on July 3, 2008, as meeting the Charter criterion for exemption from the Classified Service, and after having considered and reviewed the memorandum from the Personnel Director to the Council President and City Council dated July 3, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-100: Grant Agreement with California Department of Public Health for Lead Enforcement Supplemental Funding for Fiscal Year 2008-2009.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-157)

ADOPTED AS RESOLUTION R-304119

Authorizing the Mayor, or his designee, to apply for, negotiate, and accept grant funding of \$537,543 from the California Department of Public Health in connection with the Lead Enforcement Supplemental Funding for Fiscal Year 2008-2009, to perform lead hazard enforcement and assist other local enforcement programs in the County of San Diego to develop lead hazard enforcement programs, and to execute Grant Agreement No. 08-85089;

Authorizing the City Controller, upon execution of the grant agreement, to accept, appropriate, and expend \$537,543, in grant award funds from the California Department of Public Health under its Lead Enforcement Supplemental Funding for Fiscal Year 2008-2009;

Declaring that the acceptance of grant funds is not a project and therefore is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4); the proposed enforcement actions are categorically exempt from CEQA pursuant to CEQA Guidelines Section 15321; and the proposed implementation of various health-related modifications to existing structures is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301.

STAFF SUPPORTING INFORMATION:

The City's Lead Safe Neighborhoods Program (LSNP), coordinated by the Environmental Services Department (ESD), was approved by the City Council in 2002, and has since been aggressively tackling the problem of lead poisoning in San Diego. During the past six years, LSNP has been developing strategies and relationships designed to tackle the issue of lead poisoning in a multi-faceted way, relying on a blend of outreach, training, lead hazard control, and code enforcement activities. Primary funding source for LSNP have been grants totaling in excess of \$11,000,000.

In September 2007, CDPH announced supplemental funding in the amount of \$179,181 per year for three years, totaling \$537,543, to be allocated to the County of San Diego region to conduct lead enforcement activities to reduce incidences of childhood lead poisoning. The County of San Diego declined participating in the grant and CDPH allowed the City of San Diego to receive the award. This grant is very similar to one from the State of California that was managed by the LSNP from FY 2004 to FY 2006.

This grant is an important fiscal resource to support enforcement of the new Lead Hazard Prevention and Control Ordinance that was approved by City Council and the Mayor this year. Primary activities associated with this grant are:

1. Perform enforcement to remove lead hazards when a child has been identified with elevated blood lead levels.
2. Perform enforcement to remove lead hazards before a child has been identified with elevated blood lead levels.
3. Assist other local agency housing enforcement programs in the County of San Diego to develop lead enforcement protocols and procedures by providing funds for lead training, lead certification, technical assistance, and reimbursement on eligible lead enforcement cases.

ESD will re-classify an existing Building Maintenance position to create one new limited Asbestos and Lead Program Inspector position. The Asbestos and Lead Program Inspector position will be eliminated at the conclusion of the grant funding. The grant is currently funded through June 30, 2011, and may be renewed at that time.

FISCAL CONSIDERATIONS:

No matching funds are required for this grant. The grant provides \$179,181 per year, with a three-year total not to exceed \$537,543, beginning in FY 2009 and continuing through June 30, 2011. Of that amount, no more than \$52,000 may be used over the three-year period to offset eligible costs that support lead enforcement activities and training for other local jurisdictions.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In 2004, the Lead Poisoning Prevention Citizens' Advisory Taskforce presented a municipal ordinance on the elimination of lead hazards within the City of San Diego, which the City's Land Use and Housing Council Committee approved. On March 25, 2008, the Lead Hazard Prevention and Control Ordinance was unanimously approved by City Council and signed into law by the Mayor. The effective start date for the ordinance was May 9, 2008.

Since FY 2002, the LSNP has annually received Community Development Block Grant (CDBG) funds to identify and eliminate lead paint hazards in area homes. In FY 2009, Council Districts 1, 3, and 6 combined have allocated \$102,500 of CDBG funding to conduct enforcement activities related to lead hazards.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Lead Poisoning Prevention Citizens' Advisory Taskforce was created in September 2002 to ensure community and stakeholder input for the Lead Safe Neighborhoods Program. The taskforce was co-chaired by Councilmember Donna Frye and former Councilmember Ralph Inzunza. The purpose of this committee was to provide consultation and assistance to the City with respect to the development and implementation of the LSNP. Additionally, the LSNP is currently administering two grants dedicated to conducting outreach and awareness. These grants fund educational materials, trainings and workshops to individuals and community associations, including awareness training on the new Lead Hazard Prevention and Control Ordinance. Many Community Based Organizations' (CBOs) and private sector associations are involved as grant partners.

KEY STAKEHOLDERS:

The City and County of San Diego and the residents, and local housing enforcement programs in the San Diego region.

Gonaver/Heap

Staff: Alan Johanns - (858) 573-1262
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-101: Designating Council President Pro Tem Jim Madaffer and Council President Scott Peters as Voting Delegates for the City of San Diego at the League of California Cities Annual Business Meeting.
-

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-194) ADOPTED AS RESOLUTION R-304120

Designating Council President Pro Tem Jim Madaffer as its voting delegate at the League of California Cities Annual Business Meeting being held in Long Beach, California on September 27, 2008, and designating Council President Scott Peters to serve as an alternate voting delegate.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:32 a.m.)

MOTION BY YOUNG TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-102: Appointment to the Southeastern Economic Development Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 9/4/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-260) ADOPTED AS RESOLUTION R-304121

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Southeastern Economic Development Corporation Board of Directors, for a term ending as indicated:

NAMETERM ENDING

Delores McNeely
(Point Loma, District 2)
(Replacing Sharon Whitehurst-Payne,
who is termed out)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-103: Appointment and Reappointment to the Convention Center Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 8/20/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-261) ADOPTED AS RESOLUTION R-304122

Council confirmation of the following appointment and reappointment by the Mayor of the City of San Diego, to serve as members of the Convention Center Corporation Board of Directors, for terms ending as indicated:

NAMETERM ENDING

Nicole "Nikki" A. Clay
(Mission Hills, District 2)
(Replacing Kevin Tilden, who is
termed out)

December 1, 2010

Chris Cramer
(Point Loma, District 2)
(Reappointment)

December 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-104: Reappointments to the Wetlands Advisory Board.

(See memorandum from Mayor Sanders dated 9/3/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-264) ADOPTED AS RESOLUTION R-304123

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Wetlands Advisory Board, for terms ending as indicated:

NAME

TERM ENDING

Eric Bowlby
(North Park, District 3)
(Reappointment)

July 1, 2009

H. Lawrence Serra
(La Jolla, District 1)
(Reappointment)

July 1, 2009

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Judith St. Leger
(South Park, District 3)
(Reappointment)

July 1, 2009

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-105: Reappointment to the Old Town Planned District Design Review Board.

(See memorandum from Mayor Sanders dated 9/3/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-265) ADOPTED AS RESOLUTION R-304124

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Old Town Planned District Design Review Board, for a term ending as indicated:

NAME

TERM ENDING

Charles Ambers, Jr.
(Old Town, District 2)
(Reappointment)

March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-106: Reappointment to the Citizens' Equal Opportunity Commission.

(See memorandum from Mayor Sanders dated 9/3/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-262) ADOPTED AS RESOLUTION R-304125

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Citizens' Equal Opportunity Commission, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Dr. Patricia Hsieh (Clairemont, District 6) (Reappointment)	(Asian/Pacific Islander)	January 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-107: Reappointments to the Historical Resources Board.

(See memorandum from Mayor Sanders dated 9/4/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-263) ADOPTED AS RESOLUTION R-304126

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Historical Resources Board, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Maria Curry (Barrio Logan, District 8) (Reappointment)	Member	March 1, 2010
Louis Otto Emme (La Jolla, District 1) (Reappointment)	Member	March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-108: Excusing Council President Pro Tem Jim Madaffer from Attending the September 22, 2008, Fire Prevention and Recovery Committee Meeting; September 22 and 23, 2008, Council Meetings; September 23, 2008, Closed Session Meeting; and September 24, 2008, Budget Committee Meeting.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-230) ADOPTED AS RESOLUTION R-304127

Excusing Council President Pro Tem Jim Madaffer from attending the following meetings due to travel representing the City of San Diego on the San Diego Association of Governments (SANDAG) Board of Directors:

1. September 22, 2008 – Ad Hoc Fire Prevention and Recovery Committee Meeting.
2. September 22 and 23, 2008 – City Council Meetings (including Closed Session).
3. September 24, 2008 – Committee on Budget and Finance Meeting.

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-109: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-38) ADOPTED AS RESOLUTION R-304128

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-110: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-56) ADOPTED AS RESOLUTION R-304129

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of
Affordable Housing in the City

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-111: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1115) ADOPTED AS RESOLUTION R-304130

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of
Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-112: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1177) ADOPTED AS RESOLUTION R-304131

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the
Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: Sole-Source Agreement with Emerson Process Management Power and Water Solutions, Inc., for Design and Construction of Metro Facilities Control System Upgrades at the Metropolitan Biosolids Center. (District 7.)

(See memorandum from Tom Zeleny dated 8/14/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-246) ADOPTED AS RESOLUTION R-304132

Authorizing the Mayor, or his designee, to execute a Sole-Source Contract with Emerson Process Management Power and Water Solutions, Inc., for design and construction of Metro Facilities Control System Upgrades at the Metropolitan Biosolids Center in an amount not to exceed \$6,342,799, and under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$7,000,000, solely and exclusively, to provide funds for the above contract, contingency, and related costs, to be expended as follows: \$6,942,799 from Sewer Fund No. 41509, CIP-45-966.0, Metro Facilities Control System Upgrade; and \$57,201 from Sewer Fund No. 41509, CIP-46-502.0, Annual Allocation - Clean Water Program Pooled Contingencies; and provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer;

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301 as the repair or maintenance of existing facilities.

STAFF SUPPORTING INFORMATION:

The existing Distributed Control System (DCS) at MBC was installed 10 years ago. Since the installation, the facility has added more processes and Capital Improvement Projects (CIP) utilizing most of the spare capacity of the system.

There are future critical CIP projects that will have to be incorporated and controlled by the DCS system at MBC. In addition, the control system installed at MBC has reached the end of its life cycle system support. A thorough Business Case Evaluation (BCE) was conducted. The alternative selected to do this project was to use the original vendor now known as Emerson Process Management Power and Water Solutions, Inc., as a Design/Build Contractor to design and upgrade the hardware and software. Emerson is the only qualified vendor that has the knowledge to understand the existing custom system configuration and how any software, hardware, or third party changes affect each other. The immediate benefits would be gaining a larger system capacity for future CIP upgrades planned for the plant and training for the operation staff will be minimal since the existing control strategies and graphics to operate the plant will be exactly the same. See Sole Source Request and approved memo dated June 5, 2007.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)

Subconsultant Participation: \$187,641 2.95% \$24,000 0.37%

Other: Workforce Report Submitted. Staff will monitor plan and adherence to
Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The total cost of this project is \$ 7,000,000. Funding of \$6,642,800 will be available from the Enterprise Fund in CIP-45-966.0, Metro Facilities Control System Upgrade, Fund 41509, Sewer, and \$337,200 will be available from the Enterprise Fund in CIP-46-502.0, Annual Allocation - Clean Water Program Pooled Contingencies, Fund 41509, Sewer, for this purpose. The funds for this request are included in the 10-year financing plan.

The project cost for the Sewer portion of \$ 7,000,000 may be reimbursed approximately 80% by current or future debt financing.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Metro TAC Committee (4/16/2008), IROC (5/12/2008) and Metro Commission (5/29/2008). The Committee on Natural Resources and Culture on July 23, 2008, made no recommendation and directed staff to provide background information regarding any previous litigation with Emerson Process Management Power and Water Solutions, Inc.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the City of San Diego Metropolitan Wastewater Department, Engineering and Capital Projects Department and Emerson Process Management Inc.

Boekamp/Jarrell

Aud. Cert. 2900134.

Staff: Darren Greenhalgh - (619) 533-6600
James W. Lancaster - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 3:33 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-331: Request to Bid – Demolition of Three Unreinforced Masonry Buildings (1335 Market Street, 753 and 771 13th Street) and One Building (4332 University Avenue) – East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project and City Heights Redevelopment Project. (Districts 2 and 3.)

(See Centre City Development Corporation Report No. CCDC-08-25/
CCDC-08-14/RA-08-23/RTC-08-121.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-242) ADOPTED AS RESOLUTION R-304133

Making certain findings with respect to the payment for demolition of the three-unreinforced masonry buildings located at 1335 Market Street, 753 13th Street, and 771 13th Street, City of San Diego, in the East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project;

Consenting to the payment by the Agency for all or part of the costs associated with the demolition activities in an amount not to exceed \$144,000;

Finding and determining that this activity is categorically exempt from review under the California Environmental Quality Act (CEQA), Class 1, pursuant to CEQA Guidelines Section 15301.

SUPPORTING INFORMATION:

The Agency has acquired four properties for future development. Recently, the Corporation was approached by Agency staff to provide assistance with demolition of an Agency-owned site in City Heights, already approved for a mixed-used development, and proceeding on a similar schedule. Economies of scale for budgets and schedules can be realized by demolishing all four Agency sites under the same contract.

As a result, the Corporation has agreed to take the lead on the Project and create a demolition contract document package for all four sites, and provide project management oversight during demolition activities. The three vacant East Village properties are located at 1335 Market Street (former Autohaus Pino) - future low and moderate income affordable housing site; and 753 and 771 13th Street (former Import Tire warehouse)-future East Village Green West park site. Each of the three 5,000 square-foot East Village sites contains unreinforced masonry buildings ("URMs"). Per the City of San Diego's ("City") URM ordinance, all URMs shall be seismically retrofitted or demolished to eliminate possible future liability, injury or loss of life due to building collapses. If these buildings are not brought into compliance with the City's ordinance, fines or legal action will be brought against the Agency as the current property owner. It is prudent now to move forward with demolishing the structures to eliminate blighting conditions, comply with the City's URM ordinance, and minimize future liability, injury or loss of life due to potential building collapses.

The 12,500 square-foot City Heights property is located at 4332 University Avenue and currently contains a 2,500 square-foot building. The site is within the footprint of the proposed City Heights Square Office and Retail project and subject to the Implementation Agreement with Price Charities. Price Charities is currently processing a change to the project, specifically, a change from an office and retail project to a commercial and residential project. Also, Agency staff and Price Charities are currently preparing a Second Implementation Agreement to the Disposition and Development Agreement ("DDA") to reflect the proposed changes in the project. Both the entitlement package and Second Implementation Agreement to the DDA are proposed to be submitted to the Agency and City Council for consideration in fall 2008. Pursuant to the DDA, the Agency is obligated to relocate the existing tenant and demolish the existing structure.

FISCAL CONSIDERATIONS:

Funds for the East Village properties are available in the amount of \$96,000 in the Fiscal Year 2009 ("FY 09") Agency Parks Budget, and \$48,000 in the FY 09 Agency Low/Mod Budget, for a total of \$144,000. Funds for the City Heights building in the amount of \$84,000 are available in the FY 09 City Heights Redevelopment Project Area Budget.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On July 30, 2008, the Corporation Board of Directors voted unanimously in favor of demolition of the three East Village buildings. The Corporation Board did not consider demolition of the City Heights building, as the Agency request to include the work came after the July 30, 2008, meeting. The added work will be funded separately by the City Heights Redevelopment Project Area Budget.

PREVIOUS AGENCY AND/OR COUNCIL ACTIONS:

The original DDA with San Diego Revitalization Corporation was approved by the Agency on May 3, 2005. The First Implementation Agreement to the DDA with Price Charities (formerly San Diego Revitalization Corporation) for the proposed City Heights Square Office and Retail Project was approved by the Agency on November 13, 2007.

Yee/Weinrick/Kaiser/Anderson

Aud. Cert. 2900171.

NOTE: See the Redevelopment Agency Agenda of September 16, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:28 p.m. – 6:36 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Tailgate Park Environmental Covenant. (Petco Ballpark Tailgate Park. District 2.)

(See memorandum from John Serrano dated 4/7/2008.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-896 Cor. Copy) ADOPTED AS RESOLUTION R-304134

Authorizing the Mayor, or his designee, to execute, deliver and record the Covenant to Restrict Use of Property Environmental Restriction between the City of San Diego and the County of San Diego for the property bounded by K Street, Imperial Avenue, 12th Avenue, and 14th Street in the City of San Diego, State of California.

SUPPORTING INFORMATION:

The memorandum recommends adoption of the resolution to satisfy California law. The Department of Toxic Substances Control has required that an environmental covenant document be recorded in the County land records restricting certain future uses of Tailgate Park and prohibiting activities that would disturb soil beneath the parking lot "cap." The Redevelopment Agency of the City of San Diego (RDA) owns Tailgate Park. The City owns the closed, but not vacated, streets within the park. The City and the RDA have executed an Encroachment Maintenance and Removal Agreement under which the RDA agreed to maintain and repair the closed street areas. The RDA has leased Tailgate Park to the Padres baseball organization.

This Environmental Covenant will assist with the environmental closure process for the Ballpark Project. Should the City or the RDA desire to use the land at this site in a manner that is inconsistent with the environmental covenant, provisions are available for a discretionary variance procedure that could allow such uses.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. R-2992, adopted June 1, 1999, authorized the President of the Centre City Development Corporation, or designee, to take actions as appropriate within the Project area as authorized by the Polanco Redevelopment Act.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Redevelopment Agency; Padres Baseball Team

Serrano/Goldstone

NOTE: See the Redevelopment Agency Agenda of September 16, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:46 p.m. – 6:46 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: La Jolla Shores Lifeguard Station Amendment, Project No. 146179. Appeal of the environmental determination for a Mitigated Negative Declaration. (La Jolla Community Plan Area. District 1.)

The La Jolla Shores Lifeguard Station Amendment project site is located in front and adjacent to Kellogg Park on the west side of the boardwalk which runs parallel to the Pacific Ocean shoreline near Calle Frescota within the La Jolla Community Plan area. The project is to demolish the existing 850 square-foot lifeguard station located on the west side of the boardwalk within the park's green space; construct a new 1,485 square-foot lifeguard station consisting of two separate buildings that would be connected by a breezeway, with a 30-foot observation tower cantilevered out over the boardwalk and sand (on the east side in the southwest corner of the existing parking lot), away from the park's green space; and construct a detached 650 square-foot single story, rescue vehicle and emergency equipment facility also within the parking lot. In addition, the existing 360 square-foot steel container (adjacent to Kellogg Park along Calle Frescota) which currently stores the lifesaving equipment would be removed.

The project site is zoned Public Park (PP) of the La Jolla Shores Planned District (LJSPD) and is designated for Parks/Open Space within the La Jolla Community Plan area.

NOTE: Matter of the appeal filed by Philip A. Merten applies only to the environmental determination.

(See Report to the City Council No. 08-123.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) DENIED APPEAL AND UPHELD THE DECISION OF
THE PLANNING COMMISSION TO CERTIFY THE
MITIGATED NEGATIVE DECLARATION, ADOPTED
AS RESOLUTION R-304135

Granting or denying the appeal and upholding or overturning the Planning
Commission's decision certifying the Mitigated Negative Declaration, Project No.
146179; and certifying associated Mitigation, Monitoring and Reporting Program;

Directing the City Attorney to prepare the appropriate resolution according to
Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on July 10, 2008, voted 4-0-3 to deny the appeal and approve
Coastal Development Permit No. 516403 and Site Development Permit No. 516405;
Certify Mitigated Negative Declaration LDR No. 146179 and adopt Mitigation,
Monitoring and Reporting Program..

Ayes: Otsuji, Ontai, Schultz, Naslund
Recusing: Golba
Not present: Griswold and Smiley

The La Jolla Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Appeal of the environmental determination for a Mitigated Negative Declaration for the La Jolla
Shores Lifeguard Station project, located within the La Jolla Community Plan area.

STAFF RECOMMENDATION:

Deny the appeal and **Uphold** the Environmental Determination.

EXECUTIVE SUMMARY:

The project proposes to demolish the existing 850 square-foot lifeguard station and the 360 square-foot steel storage container; construct a new 1,485 square-foot lifeguard station with a 30-foot observation tower and a detached 650 square-foot single story equipment facility at Kellogg Park (8200 block of Camino Del Oro) within La Jolla Shores.

On May 7, 2008, the Hearing Officer certified Mitigated Negative Declaration (MND) LDR No. 146179, adopted Mitigation, Monitoring and Reporting Program; and approved Coastal Development Permit No. 516403 and Site Development Permit No. 516405. On May 21, 2008, the project was appealed to the Planning Commission (PC) by Barry Kusman.

On July 10, 2008, the PC denied an appeal of the Hearing Officer's approval and granted all approvals for the proposed project. On July 21, 2008, Philip A. Merten appealed the MND.

Basis for the Appeal: The environmental concerns listed by the appellant include Land Use and Visual Quality as outlined within the Initial Study Checklist of the MND.

The **appellant** believes the project does not conform to the land use goals, objectives and recommendations of the certified La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan (LCPLUP).

Staff Response: The project as proposed would meet the land use goals, objectives and recommendations of the LJCP and LCPLUP because it reconstructs the existing facility away from the Kellogg Park green space, locates the facility on the pavement side of the boardwalk and not the sand side, and the tower has been designed with a narrow profile to help protect public views. The existing equipment storage facility is located adjacent to Calle Frescota. The new equipment facility would be located in the northern part of the parking lot, thereby completely removing it from the Calle Frescota view corridor.

In addition, the project would provide a more modern facility to accommodate the need for increased lifesaving staff and the ever increasing number of beachgoers attending this area. The new proposal would provide a public first aid facility for users of La Jolla Shores and Kellogg Park. Therefore, no land use impacts would occur.

The **appellant** believes there would be impacts to the certain public vantage points identified in the LJCP and LCPLUP.

Staff Response: Analysis of the public views and vantage points identified in the LJCP and LCPLUP (page 145 - Figure C) resulted in no substantial view blockage. The view from Kellogg Park and Camino Del Oro are being enhanced because the proposed project location would be providing expanded ocean views from the grassy park area and no obstruction from an identified view corridor.

FISCAL CONSIDERATIONS:

La Jolla Shores Lifeguard Station is a Capital Improvement Project being funded through CIP 33-503.0. Fund 92110-PFFA-FLSF and Fund 91442000.TOT/CIP COASTAL INFRA.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

1. February 9, 2005, Hearing Officer (HO) approved the original project and certified the Negative Declaration.
2. May 12, 2005, the PC denied the appeal and Upheld the HO's decision.
3. May 7, 2008, the HO approved the project and certified the MND.
4. July 10, 2008, the PC denied the appeal and Upheld the HO's decision.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 26, 2008, the La Jolla Shores Permit Review Committee voted 3-0-0 to approve the project with no conditions. On April 3, 2008, the La Jolla Community Planning Association voted 12-1-1 to approve the project with conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The Key Stakeholders are The City of San Diego Fire and Rescue Department, and the Police Department.

LEGAL DESCRIPTION:

The proposed project is located on the boardwalk west of the 8200 block of Camino Del Oro, at La Jolla Shores Beach at Kellogg Park, within the Coastal Zone and the La Jolla Community Planning Area.

Broughton/Anderson

Staff: Vena Lewis – (619) 446-5197
Andrea Dixon – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. – 4:29 p.m.)

Testimony in favor by Phil Merten, Greg Salmon, Mary Coakley and Karen Boger.

Testimony in opposition by Rick España, Fran Doolittle, Ralph Roesling, Sebastian Mariscal and Hector Perez.

MOTION BY MADAFFER TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL AND UPHOLD THE DECISION OF THE PLANNING COMMISSION CERTIFYING THE MITIGATED NEGATIVE DECLARATION; AND CERTIFYING THE ASSOCIATED MITIGATION, MONITORING AND REPORTING PROGRAM. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: Torrey Hills VTM, Project No. 106228. An application for a Rezone from the IP-2-1 and RM-2-5 Zones to RM-3-8 and OR-1-1 Zones, Community Plan Amendment, Vesting Tentative Map and Planned Development Permit to allow the development of 484 residential condominiums and 4,000 square feet of commercial retail space. (Torrey Hills Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for a Rezone from the IP-2-1 and RM-2-5 Zones to RM-3-8 and OR-1-1 Zones, Community Plan Amendment, Vesting Tentative Map and Planned Development Permit to allow the development of 484 residential condominiums and 4,000 square feet of commercial retail space on a 22.3 acre site located south of Calle Mar De Mariposa between Vista Sorrento Parkway and West Ocean Air Drive in the Torrey Hills Community Plan Area.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in Subitems A, C, D, and E; and introduce the ordinance in Subitem B:

Subitem-A: (R-2009-188 Cor. Copy) ADOPTED AS RESOLUTION R-304136

Adoption of a Resolution certifying that Final to Master Environmental Impact Report No. 106228, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended and State Guidelines, thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone, community plan amendment, vesting tentative map and planned development permits for the Torrey Hills project;

Declaring that pursuant to California Public Resources Code Section 21081 and Administrative Code Section 15091, the City Council hereby adopts the Findings made with respect to the project, a copy of which is attached hereto and incorporated herein by reference;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Project specific Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (O-2009-23 Cor. Copy)

INTRODUCED, TO BE ADOPTED
TUESDAY, OCTOBER 7, 2008

Introduction of an Ordinance changing 24.8 acres located between Vista Sorrento Parkway and West Ocean Air Drive, south of Calle Mar De Mariposa, within the Torrey Hills Community Plan Area, in the City of San Diego, California, from the IP-2-1 and RM-2-5 Zones into the RM-3-8 and OR-1-1 Zones, as defined by San Diego Municipal Code Sections 131.0406 and 131.0204; and repealing Ordinance No. O-18451 (New Series), adopted December 9, 1997, of ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-C: (R-2009-185 Rev. Copy)

ADOPTED AS AMENDED AS
RESOLUTION R-304137

Adoption of a Resolution amending the Torrey Hills Community Plan, a copy of which is on file in the Office of the City Clerk;

Amending the Progress Guide and General Plan for the City of San Diego, solely to incorporate the above amended plan.

Subitem-D: (R-2009-186 Rev. Copy)

ADOPTED AS AMENDED AS
RESOLUTION R-304138

Adoption of a Resolution certifying the findings with respect to Vesting Tentative Map No. 352708;

Declaring the above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Granting Vesting Tentative Map No. 352708 to Coast Income Properties, Inc., Applicant/Subdivider, and C. John Eardensohn, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-E: (R-2009-187 Cor. Copy) ADOPTED AS RESOLUTION R-304139

Adoption of a Resolution certifying the findings with respect to Planned
Development Permit (PDP) No. 352707;

Declaring that the recommendation of the Planning Commission is sustained, and PDP No. 352707 is granted to Westbrook Torrey Hills, L.P., a Delaware limited liability company, AME Torrey View LLC., a California limited liability company and Pacific Centre Carmel Valley, LLC., a California limited liability company, Owners and Pacific Centre Carmel Valley, LLC., a California limited liability company, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

OTHER RECOMMENDATIONS:

Planning Commission on August 7, 2008, voted 5-0-2 to approve the project and support Staff's recommendations.

Ayes: Griswold, Ontai, Naslund, Otsuji, Golba
Not present: Schultz, Smiley

The Torrey Hills Community Planning Board voted several times on the proposed project. The final action by the Board was a vote of 9-3-0 on May 20, 2008, to not support the project. The Board could not support the project as proposed primarily due to the increase in density above that which already exists in the community. The Board motion was a tentative position reserving their opportunity to comment after reviewing the final EIR.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A Rezone, General Plan and Community Plan Amendment, Vesting Tentative Map and Planned Development Permit to develop 484 residential condominiums and one commercial condominium for 4,000 square feet of commercial space, site landscaping, and minor improvements in the public right-of-way on 22.3 acres within the Torrey Hills Community Plan area.

STAFF RECOMMENDATION:

1. **Certify** Environmental Impact Report No. 106228, Adopt the Findings and Statement of Overriding Considerations, and Adopt the Mitigation Monitoring and Reporting Program; and
2. **Approve** Rezone No. 352706, Community Plan Amendment No. 354697, Vesting Tentative Map No. 352708 and Planned Development Permit No. 352707.

EXECUTIVE SUMMARY:

The Torrey Hills Community Plan currently designates the site for industrial development. The community plan amendment would re-designate the site for a maximum of 484 multiple family dwelling units and transfer 950 Average Daily Trips (ADT) from Traffic Analysis Zone (TAZ) 731 to TAZ 737. The 22.3 acre site is located between West Ocean Air Drive and Vista Sorrento Parkway, south of Calle de Mar Mariposa in the Torrey Hills Community Plan area. The zoning request would rezone the IP-2-1 and RM-2-5 Zones on the site to the RM-3-8 and OR-1-1 Zones. A Vesting Tentative Map and Planned Development Permit would allow the site to be subdivided for condominiums and develop a project with 484 residential units and 4,000 square feet of commercial space, site landscaping, and minor improvements in the public right-of-way in the Torrey Hills Community Plan area.

The project proposes two deviations from the requirements of the proposed RM-3-8 Zone. One deviation would allow a ten foot side yard setback adjacent to West Ocean Air Drive where the Land Development Code requires a minimum of ten percent of the lot width or 64 feet. The second deviation would allow a retaining wall in the southeast corner of the site adjacent to Building 8 to be constructed to six feet six inches where the Land Development Code allows two three-foot retaining walls separated by a three foot landscape area.

The proposed development would include the construction of 484 multi-family residential condominium units within eleven buildings. The development would be a combination of podium condominiums to the north and courtyard townhomes to the south. A total of 384 condominium units would be located within six buildings on the northern portion of the site. Each of these buildings would be four stories and approximately 48 feet tall. There would be 144 one-bedroom units, 146 two-bedroom units, and 94 three-bedroom units. The 100 townhomes would be located within five buildings on the southern portion of the site. Each building would be three stories and approximately 36 feet tall. The courtyard units would range from one to three bedrooms. There would be 20 one-bedroom townhomes, 30 two-bedroom townhomes and 50 three-bedroom townhomes.

The project also includes a 1.05 acre park, a recreation center with a fifty foot swimming pool and spa, a recreation building with a community room, two offices, restroom facilities, and several barbeque areas throughout the site. The project proposes approximately 4,000 square feet of neighborhood serving commercial space within Building 1 at the ground level. The retail component would be visible from both Calle Mar de Mariposa and West Ocean Air Drive, and would be accessible to pedestrians from both streets at this intersection.

FISCAL CONSIDERATIONS:

No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission recommended staff's recommendation by unanimous vote of 5:0:0. The Torrey Hills Community Planning Board (Board) voted, on May 18, 2008, 9:3:0. The Board could not support the project as proposed primarily due to the increase in density above that which already exists in the community. The Board motion was a tentative position reserving their opportunity to comment after reviewing the final EIR.

KEY STAKEHOLDERS:

Westbrook Torrey Hills, L.P., a Delaware limited liability company;
Ame Torrey View LLC., a California limited liability company; and
Pacific Centre Carmel Valley, LLC, a California limited liability company, Owners.

Broughton/Anderson/JF

LEGAL DESCRIPTION:

The Torrey Hills VTM project is located within the Torrey Hills Community Planning Area (Lots 1 through 4 of Torrey Hills Unit 19, Map No. 14301) and Marine Corps Air Station Miramar Airport Influence Area.

Staff: John Fisher – (619) 446-5231
Marianne Greene – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: SUBITEMS A, C, D, & E: MEET
SUBITEM B: NONE

COUNCIL ACTION: (Time duration: 4:36 p.m. – 5:19 p.m.;
5:24 p.m. - 6:28 p.m.)

Testimony in opposition by Robert Randleman, Rob Mullally, Mignon Scherer, Joy Sunyata, Julie Hamilton, Diana Padgett, Paula Abney, Gigi Bainbridge, Jarvis Ross, Bob Wright, Ethan Bier, James Jaconette, Richard Hicks, Richard Kiy and Jay McGuerty.

Testimony in favor by Thomas Blake, Mark Rowson and Janay Kruger.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND E; INTRODUCE THE ORDINANCE IN SUBITEM B; AND ADOPT THE RESOLUTIONS AS AMENDED IN SUBITEMS C AND D WITH THE FOLLOWING CONDITIONS: 1) CONTRIBUTE \$1 MILLION IN A SEPARATE INTEREST-EARNING ACCOUNT FOR A FUTURE RECREATION CENTER ON FOUR ACRES OF PARK LAND IN TORREY HILLS; 2) PROVIDE FIVE PERCENT ON-SITE AFFORDABLE HOUSING AND PAY THE REQUIRED REMAINING IN-LIEU FEE AS REQUESTED BY THE CITY'S HOUSING COMMISSION; 3) CONTRIBUTE FUNDS TO THE FIRE DEPARTMENT FOR THE PURCHASE OF A FULLY-EQUIPPED FIRE BRUSH RIG FOR THE USE OF A FIRE STATION THAT SERVES TORREY HILLS; AND 4) RETIRE ALL UNUSED (361) AVERAGE DAILY TRIPS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-335: Wightman Street Neighborhood Park, Project No. 149112. Appeal of the decision by the Mayor Designee certifying a Mitigated Negative Declaration (MND) for the design and development of the Wightman Street Neighborhood Park. The proposed project site is located at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue. This Appeal applies only to the environmental determination. (City Heights Neighborhood of the Mid-City Communities Plan Area. District 7.)

Matter of the appeal filed by Theresa Quiroz regarding the decision of the Mayor to approve a General Development Plan (GDP) and certify a Mitigated Negative Declaration (MND) for the design and development of the Wightman Street Neighborhood Park on a 0.9 acre parkland located in the Mid-City City Heights area, proposing park amenities such as children's play area with playground equipment, basketball courts, picnic furniture and shade structure, trails and exercise stations, and landscapes. In addition, this project will also include improvements to Auburn Creek for the portion located on site in compliance with the City's Chollas Creek Enhancement Program adopted in 2002 enhancing it to a more natural riparian condition, featuring it as an educational and recreational amenity for the public, and improving drainage flow in the creek channel. The proposed project site is located at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue in the RM-1-3 zone of the City Heights Neighborhood of the Mid-City Community Planning Area. This Appeal applies only to the environmental determination.

(See Report to the City Council No. 08-126 and Mitigated Negative Declaration No. 149112.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-384)

DENIED APPEAL AND UPHELD THE
DECISION OF THE MAYOR'S DESIGNEE TO
CERTIFY THE MITIGATED NEGATIVE
DECLARATION, ADOPTED AS
RESOLUTION R-304140

Granting or denying the appeal and upholding or overturning the decision by the Mayor's Designee certifying Mitigated Negative Declaration (MND) No. 149112, and adopting Mitigation Monitoring and Reporting Program (MMRP);

Certifying that the information contained in Mitigated Negative Declaration No. 149112, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State Guidelines thereto (California Administrative Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City of San Diego City Council;

That the City of San Diego City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration is hereby approved;

That pursuant to California Public Resource Code, Section 21081.6, the City of San Diego City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

Directing the City Attorney to prepare the appropriate resolution(s) according to Section 40 of the City Charter.

Subitem-B: (R-2009-385)

DENIED APPEAL AND GRANTED GENERAL
DEVELOPMENT PLAN, ADOPTED AS
RESOLUTION R-304141

Granting or denying the appeal and approving the General Development Plan associated with Wightman Street Neighborhood Park, Project No. 149112;

Directing the City Attorney to prepare the appropriate resolution(s) according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

On November 28, 2007, the Colina Del Sol Recreation Council voted unanimously (4-0-0) recommending approval of the Wightman Street Neighborhood Park GDP as presented with one recommendation that the park designers resolve the safety condition presented at the opening of an adjacent drainage culvert box in Wightman Street. This recommendation was incorporated into the GDP and presented to the Park Area Committee (April 9, 2008), Design Review Board (May 14, 2008) and the Park and Recreation Board (July 17, 2008). All groups recommended approval of the GDP as presented.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

This action is an appeal of the environmental determination (Mitigated Negative Declaration No. 149112) which was prepared for the development and construction of a new neighborhood park on an approximately 1-acre City-owned park site.

STAFF RECOMMENDATIONS:

DENY the appeal and **CERTIFY** MND No. 149112; and
APPROVE the General Development Plan.

EXECUTIVE SUMMARY:

This item is an appeal of the environmental determination by the Mayor Designee to approve a General Development Plan (GDP), certify a Mitigated Negative Declaration (MND No. 149112) and adopt a Mitigation, Monitoring and Reporting Program for the design and development of the Wightman Street Neighborhood Park. The project will provide for park amenities such as children's play area with playground equipment, basketball courts, picnic furniture and shade structure, trails and exercise stations, and landscapes. In addition, this project will also include improvements to Auburn Creek for the portion located on site in compliance with the City's Chollas Creek Enhancement Program adopted in 2002, restoring it to a more natural riparian condition, provide other educational and recreational amenities, and improve drainage flow in

the creek channel. The designated park site is located on an approximately 1-acre City-owned parcel at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue in the RM-1-3 zone of the City Heights Neighborhood of the Mid-City Community Planning Area. The designated park site is directly adjacent to the Auburn Branch of Chollas Creek on the north and west and is otherwise surrounded by residential uses. A public park is not identified as a permitted use in the RM-1-3 zone. However, City facilities were intentionally excluded from the Land Development Code (LDC) Permitted Use Tables so that the City would have the flexibility to place them in any City zone. Therefore, a development permit was not required for this project.

The appeal (Attachment 1) of the environmental determination asserts that significant environmental impacts have not been adequately addressed in the Mitigated Negative Declaration, contending that there is a potential for significant impacts on the environment necessitating the preparation of an Environmental Impact Report (EIR) for public health due to sewage and other run-off contaminants based on evidence in the administrative record for a settlement agreement related to the subject property.

Staff disagrees with the appeal and believes Mitigated Negative Declaration No. 149112 considered all potential impacts to the environment and that the Mitigation, Monitoring and Reporting Program (MMRP) provides sufficient mitigation for the proposed project. Furthermore, staff determined that the proposed project is consistent with the City's Stormwater Standards which specifically requires implementation of applicable Best Management Practices (BMPs). Compliance with the City's Municipal Permit would be assured through implementation of project specific BMPs in accordance with the City's Stormwater Regulations. Lastly, the project has been reviewed for compliance with the Chollas Creek Enhancement Plan.

The Mitigated Negative Declaration was prepared, distributed and finalized in accordance with all applicable CEQA guidelines and City of San Diego land use regulations and policies. The environmental analysis focused on all potential impacts associated with the project and determined the appropriate mitigation to reduce potential impacts below a level of significance.

FISCAL CONSIDERATIONS:

All costs are recovered through CIP-29-925.0. Design and construction of the park is currently estimated to be \$3,049,000. The project has been partially funded by Special Park Fee in the amount of \$686,000. If City Council denies the appeal and upholds the Mitigated Negative Declaration, the City will send a revised application to the State of California Parks and Recreation Department requesting that grant number UP-37-002, funded via the Urban Park Act of 2001 in the amount of \$2,363,000, be moved from Fox Canyon Park to Wightman Street Park (Resolution Number R-302498). Pending State approval this project will be fully funded.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On April 2, 2007, the City Council authorized the addition of Wightman Street Park to the FY 2007 CIP program, and the transfer of \$686,000 of Special Park Fee and the request to the State of California to amend the project location in grant contract number UP-37002, Urban Park Act Grant, in the amount of \$2,363,000 from Fox Canyon Park to Wightman Street Park (Resolution No. R-302498).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 28, 2007, the Colina Del Sol Recreation Council voted unanimously (4-0-0) recommending approval of the Wightman Street Neighborhood Park GDP as presented with one recommendation that the park designers resolve the safety condition presented at the opening of an adjacent drainage culvert box in Wightman Street. This recommendation was incorporated into the GDP and presented to the Park Area Committee (April 9, 2008), Design Review Board (May 14, 2008) and the Park and Recreation Board (July 17, 2008). All groups recommended approval of the GDP as presented.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City of San Diego, Engineering & Capital Projects Department (Applicant)
City of San Diego, Park and Recreation Department (Owner/Operator)

Anderson/Broughton

LEGAL DESCRIPTION:

The proposed project site is located at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue within the City Heights Neighborhood of the Mid-City Communities Planning Area.

Staff: Debbie Van Martin – (619) 533-5414
Myra Herrmann – (619) 446-5372
Marianne Greene – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:37 p.m. – 6:39 p.m.;
6:57 p.m. – 8:20 p.m.)

Testimony in favor by Theresa Quiroz, John Stump, Osman Fatah, Joe Berardini and Kathy Evan-Calderwood.

Testimony in opposition by Jose Lopez, Ted Kozminski and Alfred Ilginis.

MOTION BY MAIENSCHIN TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL AND CERTIFY THE MITIGATED NEGATIVE DECLARATION; APPROVE THE GENERAL DEVELOPMENT PLAN; ADOPT THE FINDINGS AND THE MITIGATION, MONITORING AND REPORTING PROGRAM; AND DIRECT STAFF TO RETURN TO COUNCIL IN 45 DAYS WITH A REPORT ON AN UPSTREAM PROJECT ANALYSIS. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-recused, Hueso-yea.

ITEM-S500: Revised Council Policy 700-10 Disposition of City-Owned Real Property.

(See Reports to the City Council No. 07-110 and 07-120; Independent Budget Analyst Reports No. 08-93 and 07-67; Current Council Policy 700-10; Current Council Policy 700-10 Strike-Out version; Power Point regarding Council Policy 700-10, dated 7/11/2007; Grubb & Ellis' 1/31/2007, Best Practices Methodology Report; Grubb & Ellis' 6/13/2007, Power Point; and Linda Vista Village S.D. Homeowners Association's 7/10/2007, letter.)

(Continued from the meeting of September 8, 2008, Item 201, at the request of Mayor Sanders, for further review.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-77) ADOPTED WITH DIRECTION AS RESOLUTION R-304142

Amending Council Policy 700-10, "Disposition of City-Owned Property," as set forth in the Council Policy;

Instructing the City Clerk to add the aforesaid in the Council Policy Manual.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 7/11/2007, LU&H voted 4 to 0 to approve the changes to Council Policy 700-10, and to include the following recommendations by the Independent Budget Analyst and Chair Madaffer:

1. Add language in the Policy that requires an economic analysis of lease vs. sale be presented to Council for each property;
2. Require additional City departmental review, including Planning, and Engineering and Capital Projects;
3. Add language that includes City Council in the Government Clearance Process to allow preliminary review by Council staff to comment on "foreseeable uses" of property;
4. Clarify the method of sale language in the enabling resolution or add language that states "possible methods of sale" will be identified in the enabling resolution;
5. Re-number or letter entire Policy for structural consistency;
6. Add a definition and description of the Portfolio Plan at the beginning of the Policy (including both lease and for sale), and add language about requiring an annual Portfolio Plan presentation to the full City Council.
 - a. Suggested language:
 - The Real Estate Assets Department shall prepare and present to the City Council a comprehensive Portfolio Management Plan on an annual basis, with periodic reviews and as-needed updates at City Council Committee. The Portfolio Management Plan shall include an overall review of the City's real estate portfolio (or inventory), an operating plan for corporate property, a disposition plan for surplus property, market research to support anticipated transactions and a request for authority to act within defined parameters (as described in this policy).

- b. The major elements of the portfolio Plan are to include:
 - Property evaluation and characterization of real estate assets
 - ~~Strategy for City-occupied real estate~~
 - Investment portfolio plan (Leases to for profit tenants)
 - Review of not-for-profit leases
 - Disposition Plan for surplus assets
 - Business Case development review
 - Legal document development and review
7. The addition of an exclusionary provision in Section F. "The City reserves the right to exclude from any listing agreement the name of any buyer whose interest in a purchase of the subject property has been made a part of the record prior to the execution of such agreement";
8. Require Council review in one year for effectiveness of Policy changes.

(Councilmembers Atkins, Young, Madaffer, and Hueso voted yea.)

SUPPORTING INFORMATION:

The proposed revisions to Council Policy 700-10 will provide a framework by which to manage and maximize the City's real estate assets. The proposed changes will establish practices for the sale and leasing of City property as part of an overall portfolio management plan.

The procedures for sale of City property include:

- A detailed analysis process for determining if a property should be sold.
- Direction through the Government Clearance Process.
- The process by which properties are approved by the City Council for sale at pre-approved minimum prices and methods of sale.
- Marketing process for properties.
- Guidelines for use of Real Estate brokers if appropriate.

A summary of the changes regarding the leasing of City-owned property is as follows:

- The rate of return for leased property will be based on an appraisal that complies with the Uniform Standards of Professional Appraisal Practice (USPAP).
- More specific requirements for the establishment of percentage rents and minimum rents for percentage rate leases.
- Percentage rate adjustment every 10 years to current fair market rents for percentage rate leases.

- Market rate adjustments every 10 years and Consumer Price Index Adjustments in interval terms between market rate adjustments for flat rate leases.
- Rent arbitration process for situations where the City and lessee cannot agree on new rent for a rental period under review.
- Defined Appraisal Assumptions.
- Required analysis of level of capital improvements and economic life expectancy of the development in order to determine length of lease term.
- Clearly defined maximum leasehold financing and refinancing restrictions including a requirement for substantial benefit to the City in refinancing situations.
- Specification that the maintenance to improvements and the costs for utilities are the responsibility of the lessee.
- Requirement that requests for assignment of leasehold interests will be evaluated with the same criteria as new leasehold proposals and may include additional consideration to the City.
- New requirements for lease extensions and renewals based on investment to City property and sound business practices in order to determine the appropriate length of any new term.
- Requirement that agreements provide the City the right to assume ownership of the leasehold improvements at the end of the lease. In the event that the lessee is granted an extension, the City may be compensated by an amount equal to the change in present value attributable to the deferral of the reversionary interest.
- Standard requirement for security deposit for new leases in an amount equivalent to three month's rent.
- Requisite that the City may charge a transaction processing fee in accordance to Administrative Regulation 95.25.

The newly revised Council Policy 700-10 will act as an overarching policy document with respect to the leasing of City-owned property. New or amended sub-policies tailored to the needs of specific tenant groups, such as, Balboa Park, Mission Bay Park, Non-Profit organizations, Agricultural lands, Airports and Telecommunication Sites will follow. In the event of a conflict between the revised Council Policy 700-10 and the tenant specific sub-policy, the sub-policy will prevail.

FISCAL CONSIDERATIONS:

The revisions to Council Policy 700-10 will establish procedures for the sale and leasing of the City's surplus property that will maximize the value of the City's real estate assets.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Presentation to the Rules Committee on April 11, 2007; Presentation to the Land Use and Housing Committee on June 13, 2007; The proposed changes to Council Policy 700-10 were approved 4-0 by the Land Use and Housing Committee on July 11, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Outreach and presentations of the proposed changes were presented in several public forums including the Mission Bay Lessee's Association Meeting, a Lessee meeting, and a Lessee Town Hall Meeting on December 13, 2007.

These meetings included attendees representing all different facets of lessee groups. The proposed changes have been posted on the City's website since June 2007.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The recommended changes to Council Policy 700-10 will enable the City to manage its real estate assets in a more efficient and productive manner that will allow the City to maximize their value.

Barwick/Anderson

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:25 p.m.)

MOTION BY MADAFFER TO ADOPT STAFF'S RECOMMENDATION WITH THE CLARIFICATION TO INCLUDE H4, REZONING, "CITY LAND SHALL BE CONSIDERED FOR A REZONE" AS SUGGESTED BY COUNCIL MEMBER FRYE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S501: 3953 Centre Tentative Map, Project No. 79752. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street. (Uptown Community Plan Area, District 3.)

Matter of the appeal by the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision by the Planning Commission approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street in the MR-800B Zone of Mid-City Communities Planned District within the Uptown Community Plan.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotherproglh.shtml>.

This project was determined to be categorically exempt from the California Environmental Quality Act on August 31, 2005, and the opportunity to appeal that determination ended September 15, 2005.

(TM No. 248795/Waiver of requirement to underground existing overhead utilities.)

(Continued from the meeting of September 9, 2008, Item 355, at the request of Council President Peters, for full Council.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

NOTED AND FILED

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 248795 and approving the waiver to the requirement to underground existing overhead utilities;

Directing the City Attorney to prepare the appropriate resolution(s) according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on June 12, 2008, voted 5-1-1 to approve.

Ayes: Otsuji, Golba, Schultz, Naslund, Ontai

Nays: Griswold

Not present: Smiley

The Uptown Planners has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2).

The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *"The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."*

All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision-maker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements. All of the projects in this group would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing. None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City's General Plan has become invalid due to the City's failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City's Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

None. All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Anderson/Broughton

Staff: William Zounes – (619) 687-5942
Karen Heumann – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. – 3:39 p.m.)

Motion by Atkins to grant the appeal and overturn the decision by the Planning Commission approving the tentative map. Second by Frye. Failed by the following vote. Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.

ITEM-S502: 4611 Ohio Tentative Map, Project No. 83623. Appeal of the decision by the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert 36 existing residential units to condominiums. (North Park Community Plan Area. District 3.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development, regarding the decision of the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert 36 existing residential units to condominiums, on a 0.75-acre site located at 4611 Ohio Street, in the MR-800B Zone of the Mid-City Communities Planned District, within the Greater North Park Community Plan Area.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have the rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotheprog1h.shtml>.

(Continued from the meeting of September 9, 2008, Item 345, at the request of Council President Peters, for full Council.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

NOTED AND FILED

Granting or denying the appeal and granting or denying the Tentative Map No. 263258 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 4-2-1 to approve Tentative Map No. 263258; and approve waiver to the requirement to underground existing overhead utilities as presented in Report No. PC-08-094.

Ayes: Naslund, Ontai, Otsuji, Golba
Nays: Schultz, Griswold
Not present: Smiley

The Greater North Park Community Planning Group has recommended denial of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION:

DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempt's condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) applies is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *"The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision maker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid. **SDMC Sections 142.1304 and 142.1305:** These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements.

All of the projects in this group would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing.

None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

The appeal also asserts that the Housing Element of the City's General Plan has become invalid due to the City's failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. All of the projects in this group were approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City's Housing Element has never been considered invalid and would not be grounds for denial of these projects.

FISCAL CONSIDERATIONS:

None. All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. – 3:39 p.m.)

Motion by Atkins to grant the appeal and overturn the decision by the Planning Commission approving the tentative map. Second by Frye. Failed by the following vote. Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Hueso-nay.

ITEM-S503: Reconsideration of 3953 Centre Tentative Map, Project No. 79752. Appeal of Planning Commission's Decision Approving an Application for a Tentative Map to Convert 21 Existing Residential Units to Condominiums and a Request to Waive the Requirements to Underground Existing Overhead Utilities on a 16,540 Square Foot Site Located at 3953 Centre Street. (Uptown Community Plan Area. District 3.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

Subitem-A: NOTED AND FILED

Waiving the Permanent Rules of City Council, Section 22.0101.5 of the San Diego Municipal Code.

Subitem-B: NOTED AND FILED

Reconsidering the Council action for 3953 Centre Tentative Map, Project No. 79752. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street.

NOTE: If the matter is to be reconsidered, time has been reserved for the item to be heard later in the agenda. (Tuesday, September 16, 2008.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:34 p.m. – 3:38 p.m.)

NOTE: No action required or taken due to the action taken by Council on Item S501 of today's Council Meeting.

ITEM-S504: Reconsideration of 4611 Ohio Tentative Map, Project No. 83623. Appeal of the Decision by the Planning Commission Approving an Application for a Tentative Map and a Waiver of the Requirement to underground the Existing Overhead Utilities, to Condominiums. (North Park Community Plan Area. District 3.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

Subitem-A: NOTED AND FILED

Waiving the Permanent Rules of City Council, Section 22.0101.5 of the San Diego Municipal Code.

Subitem-B: NOTED AND FILED

Reconsidering the Council action for 4611 Ohio Tentative Map, Project No. 83623. Appeal of the decision by the Planning Commission approving an application for a Tentative Map and waiver of the requirement to underground the existing overhead utilities, to condominiums.

NOTE: If the matter is to be reconsidered, time has been reserved for the item to be heard later in the agenda. (Tuesday, September 16, 2008.)

000281

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for the Regular Meeting of Tuesday, September 16, 2008

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FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:34 p.m. – 3:38 p.m.)

NOTE: No action required or taken due to the action taken by Council on
Item S502 of today's Council Meeting.

REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to
the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:05 p.m.)

NON-DOCKET ITEMS:

None.

000282

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, September 16, 2008

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ADJOURNMENT:

The meeting was adjourned by Council President Peters at 8:28 p.m. in honor of the
memory of:

Captain Paul Hartley as requested by Council Member Faulconer;
Harvey Goodfriend as requested by Council President Pro Tem Madaffer; and
Doris Perry as requested by Council President Pro Tem Madaffer.

FILE LOCATION:

MINUTES

COUNCIL ACTION:

(Time duration: 8:20 p.m. – 8:28 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

000283

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, SEPTEMBER 15, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:02 p.m. Council President Peters recessed the meeting at 3:14 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:21 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 4:29 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

Clerk-Biagi (sr)

FILE LOCATION: MINUTES

Minutes of the Council of the City of San Diego
for the Regular Meeting of Monday, September 15, 2008

ITEM-1: ROLL CALL

Clerk Biagi called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Father George Morelli of the Antiochian Orthodox Christian Archdioceses of North America.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council President Pro Tem Madaffer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *In The Matter of: Natural Gas Anti-Trust Cases I, II, III, & IV*
Re: All Price Indexing Cases,
San Diego Superior Court JCCP Nos. 4221, 4224, 4226, and 4228

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

DCA Assigned: F. Ortlieb

This matter involves a pending consolidated action lawsuit against retail sellers of natural gas for anti-competitive acts and unfair business practices in 2000 and 2001. In closed session, the City Attorney will discuss the recommended settlement proposed with defendants EnCana Corporation and WD Energy Services, Inc.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

CS-2 *City of San Diego v. RCP Block and Brick, Inc., and Casey Development, Inc.*
San Diego Superior Court Case No. 37-2008-00090291-CU-CD-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

DCA Assigned: J. Taylor

This matter involves pending litigation against RCP Block and Brick, Inc., and Casey Development, Inc., related to the failure of a portion of Siempre Viva Road constructed by RCP Block and Brick and Casey Development, and dedicated to the City of San Diego. The City Attorney requests that the Mayor and City Council authorize the expenditure of funds for costs of the litigation and to assent to the filing of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

CS-3 *Janet Wood v. City of San Diego*
Federal District Court Case No. 881910

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

EACA Assigned: D. McGrath

The *Janet Wood v. City of San Diego* matter is an action filed by Janet Wood alleging women and unmarried retirees receive less pension benefits than others. In closed session, the City Attorney will brief the Mayor and City Council on the status of this matter and request the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

CS-4 *Jacqueline Lindsay v. Office of the City Attorney and City of San Diego, et al.*
San Diego Superior Court Case No. 881910

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

DCA: W. Chung

The *Jacqueline Lindsay v. Office of the City Attorney, City of San Diego, et al.* matter is an action filed by Jacqueline Lindsay for denial of long-term disability benefits and industrial leave. In closed session, the City Attorney will brief the Mayor and City Council on the status of this matter and request the retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

**CS-5 *Deputy City Attorney Association v. City of San Diego*
LA-CE-359**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

CDCA Assigned: A. Hersh and DCA: W. Gersten

The *Deputy City Attorney Association v. City of San Diego* matter is an action filed by DCAA for bad faith bargaining and prematurely declaring an impasse. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and discuss the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

**CS-6 *Chapin and Castleman v Aguirre and City of San Diego, et al.*
Federal District Court Case No. 05CV1906 R (POR)**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

DCA Assigned: W. Chung

The *Chapin and Castleman v. Aguirre and City of San Diego, et al.*, matter is an action filed by James Chapin and Penny Castleman for wrongful constructive termination. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and discuss the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

CS-7 *Kelsey and Luz Soto v. City of San Diego, David Highsmith*
Case No. 37-2007-00063325-CU-PA-S

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

DCA Assigned: K. Phillips

The *John E. Soto, et al. v. City of San Diego, David Highsmith* matter is an action filed by Plaintiffs for negligent driving by an undercover San Diego Police Officer, without the use of emergency lights or sirens. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and seek authority for final settlement of all claims.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code Section 54956.9(a):

CS-8 *Citizens for Responsible Equitable Environmental Development v. the City of San Diego (Case #37-2008-00090571-CU-MC-CTL)*

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

On July 29, 2008, the City Council voted 7-1 to approve the University Towne Center Revitalization Project. In closed session, the Mayor and City Council will receive an update and may take appropriate action regarding above referenced litigation.

Closed Session Comment 1:

Joy Sunyata commented on the Planning Commission concerns of community involvement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:11 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - existing litigation - pursuant to California Government Code Section 54956.9(a):

**CS-9 *Crabbe, et al. v. City of San Diego*
 *San Diego Superior Court Case No. 37-2008-00077405-CU-EI-CTL***

***Al-Quraini, et al. v. City of San Diego*
 *San Diego Superior Court Case No. 37-2008-00080246-CU-EI-CTL***

***McCormick, et al. v. City of San Diego*
 *San Diego Superior Court Case No. 37-2008-00082194-CU-EI-CTL***

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

These matters involve litigation resulting from the Mt. Soledad Geological Movement. The City Council authorized the Mayor to retain outside legal counsel to advise the Mayor and City Council with respect to these matters. The Mayor has retained the law firm of Butz Dunn & DeSantis, APC. An update on this litigation will be provided.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-10 Agency Negotiator: Steven Berliner, Scott Chadwick, Thom Harpole,
Alan Hersh, and Jessica Falk Michelli

Employee Organizations: Municipal Employees Association, AFSCME Local 127
AFL-CIO, Local 145 International Association of
Firefighters

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 16, 2008

DCAs Assigned: A. Hersh/J. Falk Michelli

Conference with Labor Negotiators regarding relationship between BPR and
Managed Competition in light of recent PERB decision.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:08 p.m.)

Council President Peters closed the hearing.

ITEM-200: Citywide Parking Restrictions for Oversized, Non-Motorized, and Recreational
Vehicles.

(See memorandum from Patti Boekamp, Stacey LoMedico, Mary Cornicelli, and
Gail Granewich, dated 4/4/2008.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-2)

CONTINUED TO TUESDAY, OCTOBER 28, 2008,
WITH DIRECTION

Introduction of an Ordinance amending Chapter 8 of the San Diego Municipal Code by renaming Article 1; by repealing Sections 81.01 through 81.01.30; by adding Division 1 titled "Definitions, Authority, and Enforcement" and adding Sections 81.0101, 81.0102, and 81.0103; by renumbering Sections 81.02, 81.03, 81.04, 81.05, 81.06, 81.07, 81.07.1, 81.08, 81.09, 81.10, and 81.11; amending Chapter 8, Article 6 by renumbering Sections 86.01, 86.02, 86.02.1, 86.02.2, 86.03, 86.03.1, 86.04, 86.05, 86.06, 86.07, 86.08, 86.08.1, 86.09, 86.09.1, 86.09.2, and 86.09.3; by amending and renumbering Section 86.09.04; by renumbering Sections 86.09.05, 86.09.06, 86.10, 86.10.2, and 86.10.3; by amending and renumbering Section 86.10.4; by renumbering Sections 86.11, 86.12, 86.13, 86.14, 86.15, 86.16, 86.17, 86.18, 86.19, 86.19.1, 86.19.2, 86.19.3, 86.19.4, and 86.22; by amending and renumbering Section 86.23; by adding Sections 86.0138, 86.0139, 86.0140, 86.0141, and 86.0142; by renumbering Sections 86.24, 86.24.1, 86.25, and 86.26; and by amending and renumbering Sections 86.27, 86.28, 86.29, and 86.30; all regarding traffic, vehicles, and parking in the City of San Diego;

This Ordinance amends the San Diego Municipal Code to prohibit parking of oversized, non-motorized, and recreational vehicles on any public street or City park in the City of San Diego between 10:00 p.m. and 6:00 a.m., or within 50 feet of any intersection at any time. Oversized vehicle, non-motorized vehicle, and recreational vehicle are all newly created defined terms. Exceptions are made for: oversized vehicles making pickups or deliveries; government or public utility vehicles; school buses transporting students; buses transporting youths or disabled persons during designated activities; and vehicles otherwise lawfully using commercial loading zones;

A permitting process for residents of the City or guests of residents who wish to park recreational vehicles in the same block as their homes on public streets while preparing for trips is also authorized. These restrictions on the parking of oversized, non-motorized, and recreational vehicles expire two years after they are effectively certified by the California Coastal Commission.

SUPPORTING INFORMATION:

The need for an ordinance restricting the parking of oversized, non-motorized, and recreational vehicles on public streets, alleys, and parks was discussed at City Council on January 29, 2008. The proliferation of oversized vehicles, recreational vehicles, and trailers has risen to a level detrimental to public safety and quality of life issues. This is of particular concern in residential areas, where owners park large and often unsightly RVs in front of residents' homes for weeks or even months at a time, taking up precious parking spaces, blocking view corridors, and restricting access to driveways and alleys. The City Council requested that City staff conduct a fiscal analysis of the proposal, both for Citywide implementation and for a proposed pilot area, generally described as west of I-5, north of downtown and south of Del Mar. A source of funding for the placement of signs and enforcement of a pilot program has not been identified.

There are two alternative proposals being presented to the City Council for adoption. This proposed ordinance is for a Citywide restriction on the parking of oversized, non-motorized, and recreational vehicles. This ordinance would prohibit parking of such vehicles on public streets, alleys, and in parks between 10 p.m. and 6 a.m., with certain specified exceptions. It would also prohibit parking of such vehicles within 50 feet of any intersection at any time. Violations would be an infraction with a fine of \$100. These restrictions would be implemented on a trial basis, effective for a period of two years after they are approved by the California Coastal Commission for the coastal zone.

City residents and their guests would be eligible to receive permits to park recreational vehicles for up to 72 hours, as long as the recreational vehicle is parked in the same block as the address of the residence. No more than 24 permits could be issued to any one address in any calendar year, and permits could not be issued for consecutive periods without at least 24 hours between permits. A fee would be charged for each permit, in order to recover the cost of implementation and enforcement of the proposed ordinance. The amount of the fee will be determined by City staff, and subject to approval of the City Council.

The ordinance also repeals and renumbers various provisions of Chapter 8 of the Municipal Code to bring these provisions into conformance with current formatting and numbering standards. For example, Municipal Code provisions now have only one decimal point, with only four numerals after the decimal point. Older provisions of the municipal code are gradually updated to this format as other amendments are processed.

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FISCAL CONSIDERATIONS:

A funding source has yet to be identified to implement and enforce this proposed ordinance. Under the terms of the ordinance, signs must be posted in order for the ordinance to become effective and enforceable.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- LU&H on December 2004, and April 2005.
- Citywide Parking Advisory Board in May 2006.
- City Council (for discussion only) on January 29, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Zelcny

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:11 p.m. - 3:14 p.m.;
3:21 p.m. - 4:29 p.m.)

MOTION BY FAULCONER TO CONTINUE TO TUESDAY, OCTOBER 28, 2008, WITH DIRECTION TO THE MAYOR TO COMMENCE THE MEET AND CONFER PROCESS WITH REGARD TO THE CITY-WIDE PROPOSAL AND BRING RECOMMENDATIONS FOR ENFORCEMENT, INITIAL IMPLEMENTATION FUNDING, AN IMPLEMENTATION TIMELINE, AND INCORPORATE THE INDEPENDENT BUDGET ANALYST'S REQUESTS AS SET FORTH IN THE CONCLUSION IN THE REPORT, AND ELIMINATE REFERENCE TO COASTAL COMMISSION APPROVAL. DIRECT THE CITY ATTORNEY TO RESEARCH FEDERAL, STATE, AND LOCAL LAWS REGARDING THE FOLLOWING ISSUES FOR FURTHER DISCUSSION: 1) PEOPLE WITH DISABILITIES REQUIRING OVERSIZED VEHICLES, 2) PEOPLE LIVING IN OVERSIZED VEHICLES WITH NO OTHER OPTIONS, AND 3) THE ABILITY TO INCREASE THE DISTANCE VEHICLES HAVE TO BE MOVED. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-201: Parking Restrictions for Oversized, Non-Motorized, and Recreational Vehicles in a Specified Pilot Area. (Coastal Communities. Districts 1, 2, and 6.)

(See memorandum from Patti Boekamp, Stacey LoMedico, Mary Cornicelli, and Gail Granewich dated 4/4/2008.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-3) RETURNED TO THE MAYOR

Introduction of an Ordinance amending Chapter 8 of the San Diego Municipal Code by renaming Article 1; by repealing Sections 81.01 through 81.01.30; by adding Division 1 titled "Definitions, Authority, and Enforcement" and adding Sections 81.0101, 81.0102, and 81.0103; by renumbering Sections 81.02, 81.03, 81.04, 81.05, 81.06, 81.07, 81.07.1, 81.08, 81.09, 81.10, and 81.11; amending Chapter 8, Article 6, by renumbering Sections 86.01, 86.02, 86.02.1, 86.02.2, 86.03, 86.03.1, 86.04, 86.05, 86.06, 86.07, 86.08, 86.08.1, 86.09, 86.09.1, 86.09.2, and 86.09.3; by amending and renumbering Section 86.09.04; by renumbering Sections 86.09.05, 86.09.06, 86.10, 86.10.2, and 86.10.3; by amending and renumbering Section 86.10.4; by renumbering Sections 86.11; 86.12, 86.13, 86.14, 86.15, 86.16, 86.17, 86.18, 86.19, 86.19.1, 86.19.2, 86.19.3, 86.19.4, and 86.22; by amending and renumbering Section 86.23; by adding Sections 86.0138, 86.0139, 86.0140, 86.0141, and 86.0142; by renumbering Sections 86.24, 86.24.1, 86.25, and 86.26; and by amending and renumbering Sections 86.27, 86.28, 86.29, and 86.30; all regarding traffic, vehicles, and parking in the City of San Diego;

This ordinance amends the San Diego Municipal Code to prohibit parking of oversized, non-motorized, and recreational vehicles on any public street or City park within a designated pilot area between 10:00 p.m. and 6:00 a.m., or within 50 feet of any intersection at any time. Oversized vehicle, non-motorized vehicle, and recreational vehicle are all newly created defined terms. The pilot area is generally described as west of I-5, north of downtown and south of Del Mar, and a portion of the City east of I-5 across from Mission Bay;

Exceptions are made for: oversized vehicles making pickups or deliveries; government or public utility vehicles; school buses transporting students; buses transporting youths or disabled persons during designated activities; and vehicles otherwise lawfully using commercial loading zones. A permitting process for residents of the City or guests of residents who wish to park recreational vehicles in the same block as their homes on public streets while preparing for trips is also authorized. These restrictions on the parking of oversized, non-motorized, and recreational vehicles expire two years after they are effectively certified by the California Coastal Commission.

SUPPORTING INFORMATION:

The need for an ordinance restricting the parking of oversized, non-motorized, and recreational vehicles on public streets, alleys, and parks was discussed at City Council on January 29, 2008. The proliferation of oversized vehicles, recreational vehicles, and trailers has risen to a level detrimental to public safety and quality of life issues. This is of particular concern in residential areas, where owners park large and often unsightly RVs in front of residents' homes for weeks or even months at a time, taking up precious parking spaces, blocking view corridors, and restricting access to driveways and alleys. The City Council requested that City staff conduct a fiscal analysis of the proposal, both for Citywide implementation and for a proposed pilot area, generally described as west of I-5, north of downtown and south of Del Mar. A source of funding for the placement of signs and enforcement of a pilot program has not been identified.

There are two alternative proposals being presented to the City Council for adoption. This proposed ordinance is for a restriction on the parking of oversized, non-motorized, and recreational vehicles within a designated pilot area. The pilot area is generally described as west of I-5, north of downtown and south of Del Mar, and a portion of the City east of I-5 across from Mission Bay. This ordinance would prohibit parking of such vehicles on public streets, alleys, and in parks within the pilot area between 10:00 p.m. and 6:00 a.m., with certain specified exceptions. It would also prohibit parking of such vehicles within 50 feet of any intersection at any time. Violations would be an infraction with a fine of \$100. These restrictions would be implemented on a trial basis, effective for a period of two years after they are approved by the California Coastal Commission for the coastal zone.

City residents and their guests would be eligible to receive permits to park recreational vehicles for up to 72 hours, as long as the recreational vehicle is parked in the same block as the address of the residence. No more than 24 permits could be issued to any one address in any calendar year, and permits could not be issued for consecutive periods without at least 24 hours between permits.

A fee would be charged for each permit, in order to recover the cost of implementation and enforcement of the proposed ordinance. The amount of the fee will be determined by City staff, and subject to approval of the City Council.

The ordinance also repeals and renumbers various provisions of Chapter 8 of the Municipal Code to bring these provisions into conformance with current formatting and numbering standards. For example, Municipal Code provisions now have only one decimal point, with only four numerals after the decimal point. Older provisions of the municipal code are gradually updated to this format as other amendments are processed.

FISCAL CONSIDERATIONS:

A funding source has yet to be identified to implement and enforce this proposed ordinance. Under the terms of the ordinance, signs must be posted in order for the ordinance to become effective and enforceable.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

LU&H in December 2004, and April 2005.

Citywide Parking Advisory Board in May 2006.

City Council (for discussion only) on January 29, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Zeleny

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:29 p.m. - 4:29 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR'S OFFICE.

Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

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ITEM-202: Appeal of Mesa College Amendment to Site Development Permit 324476, to delete a mitigation requirement for an eastbound left turn lane on Mesa College Drive at Ashford Street. (Clairemont Mesa and Linda Vista Community Areas. District 6.)

Matter of the appeal by the Grandmothers, of the Planning Commission's decision to approve Site Development Permit No. 485233 an amendment to Site Development Permit No. 324476, which modify previously adopted mitigation measures by removing the requirement of a left turn lane on Mesa College Drive at Ashford Street.

(See Report to the Planning Commission No. PC-08-023/Site Development Permit (SDP) No. 485233/Amendment to Site Development Permit No. 324476/Addendum to Mitigated Negative Declaration State Clearing House 2005121106/MMRP/Project No. 139300.)

(Continued from the meeting of July 21, 2008, Item 201, at the request of Councilmember Frye, for further review.)

NOTE: Hearing open. Testimony taken on 7/21/2008.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-) CONTINUED TO MONDAY, OCTOBER 20, 2008

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission that the City of San Diego as a Responsible Agency, certifies that the information contained in Addendum to Mitigated Negative Declaration State Clearing House No. 2005121106 has been completed in compliance with the California Environmental Quality Act of 1970 and State Guidelines, and that said Addendum has been reviewed and considered by the Council, and adopting appropriate findings of mitigation, pursuant to California Public Resource Code Section 21081; and adopting Mitigation Monitoring and Reporting Program;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

Subitem-B: (R-2009-) CONTINUED TO MONDAY, OCTOBER 20, 2008

Granting or denying the appeal and upholding and overturning the decision by the Planning Commission in approving the project; and granting or denying Site Development Permit (SDP) No. 485233, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on March 6, 2008, voted 6-0-1 to approve.

Ayes: Schultz, Grizwald, Ontai, Otsuji, Nasland, Smiley
(One vacancy)

The Clairemont Mesa Community Planning Group has recommend approval of this project.

The Linda Vista Community Planning Group has recommend denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve Site Development Permit No. 485233 an amendment to Site Development Permit No. 324476, which modified mitigation measures to remove the requirement of a left turn lane on Mesa College Drive at Ashford Street.

STAFF RECOMMENDATION:

Deny the appeal and uphold the Planning Commission's decision to approve Site Development Permit No. 485233.

EXECUTIVE SUMMARY:

On January 8, 2007, the City Council approved Site Development Permit No. 324476 in association with the Mesa College Street Vacation. Subsequent to the City Council's approval of the project, a study determined that implementation of the proposed left turn lane within the existing Mesa College Drive right-of-way would result in substandard lane widths and the removal of the existing curbside parking. Furthermore, it was determined that an expansion of the right-of-way to accommodate standard lane widths would impact the Kearny Mesa High Educational Complex.

In researching the source of the mitigation measure, it was determined that the following language appeared in the revised traffic study, dated September 28, 2005 (Section VIII), that was not included in the April 15, 2005, study.

In order to provide more capacity and improved circulation on Mesa College Drive for the interim and future conditions, it is recommended that the project provide an eastbound left turn lane on Mesa College Drive at Ashford Street. This improvement would increase capacity and safety at this intersection.

This language was carried forward in subsequent traffic study revisions and was also included in subsequent MND's dated June 28, 2006, and September 1, 2006, as a mitigation measure. According to the traffic study prepared for the Mesa College Facilities Master Plan by Darnell & Associates, dated June 27, 2006, the intersection of Mesa College Drive and Ashford Street currently operates and will continue to operate at Level of Service "A" during both AM and PM peak hours. The analysis includes data for existing and future conditions with and without the parking structure project.

Also, according to the traffic study, Mesa College Drive between Armstrong Street and Ashford Street currently operates as Level of Service "B" under existing conditions. The roadway segment is expected to operate at Levels of Service "B" and "C" in the 2010 and 2030 scenarios with or without the proposed parking structure.

The San Diego Community College District and City staff concur that the mitigation measure could be deleted from the MND and the MMRP based on the analysis in the traffic study using the City's CEQA thresholds for significant impacts.

On March 6, 2008, the Planning Commission voted to approve Site Development Permit No. 485233, an amendment to Site Development Permit No. 324476 and modify the mitigation to remove the requirement of a left turn lane on Mesa College Drive at Ashford.

On March 17, 2008, the Planning Commission's decision was appealed by the "Grandmothers" on the basis of new or different impacts not reviewed or considered by the environmental document.

FISCAL CONSIDERATIONS:

All costs associated with the project including this appeal are being paid for by the applicant, the San Diego Community College District.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On January 8, 2007, the City Council approved Site Development Permit No. 324476, a Multi-Habitat Planning Area Boundary Line Adjustment, Street Vacation of the western end of Mesa College Drive and the sale of 2.69 acres of land to the San Diego Community College District to construct a parking garage.

On March 6, 2008, the Planning Commission voted to approve Site Development Permit No. 485233.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 16, 2007, the Clairemont Mesa Planning Committee voted 10-3-0 to recommend approval of the amendment to delete the requirement for a dedicated left turn lane.

On November 26, 2007, the Linda Vista Planning Committee voted 9-2-1 to recommend denial of the amendment to delete the mitigation requirement, however specific reasons were not provided in their meeting.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The San Diego Community College District, Students of Mesa College, the Clairemont Mesa and Linda Vista Communities, Kearny Villa Park, Kearny Mesa High Educational Complex and the City of San Diego.

Broughton/Anderson/HD

LEGAL DESCRIPTION:

The project site is located at the head of a canyon at the western terminus of Mesa College Drive, south of the Mesa College campus proper, and north of Kearny Mesa Park in the Clairemont Mesa and Linda Vista communities in the City of San Diego.

NOTE: State for the record that the City of San Diego as the responsible agency under the California Environmental Quality Act (CEQA) has reviewed and considered the Addendum to Mitigated Negative Declaration prepared by the City of San Diego Community College District, and recommend adopting the Mitigation, Monitoring and Reporting Program.

Staff: Helene Deisher - (619) 446-5223

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:05 p.m. - 2:07 p.m.)

MOTION BY FRYE TO CONTINUE TO MONDAY, OCTOBER 20, 2008, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S400: Amendment to the Managed Competition and Business Process Reengineering Ordinance.

(See Independent Budget Analyst Reports No. 08-95, No. 08-65 with revised Attachment I, and No. 08-77; Independent Budget Analyst's 9/8/2008, 7/28/2008, and 6/18/2008, Power Point; letter from Andrew N. Berk, Esq. dated 7/27/2008; and San Diego Union-Tribune article dated 7/27/2008.)

(Continued from the meeting of September 8, 2008, Item 200, at the request of City Attorney, for further review.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the ordinance in Subitem A which was introduced on 7/28/2008, Item 151. (Council voted 7-1. Council President Pro Tem Madaffer voted nay). Subitem B will not be heard at today's meeting:

Subitem-A: (O-2008-137 Cor. Copy) RETURNED TO THE MAYOR

Establishing the Policy of the City of San Diego to reorganize the departments of the City in order to improve the level of services to the citizens of the City and reduce the cost of providing such services, to improve the process under which Business Process Reengineering Reports are presented to the City Council.

Subitem-B: (O-2009-11 Rev.) RETURNED TO THE MAYOR

Amending Chapter 2, Article 2, Division 37, Section 22.3701 et seq., to provide for greater City Council oversight of managed competition.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 6/18/2008, Budget voted 5 to 0 to forward the Independent Budget Analyst's Report to the full City Council and include these additional requests:

1. Outstanding issues to continue to be discussed with stakeholders and recommendations brought forward to full City Council;
 2. Methodology Auditor will use;
 3. Direction to the City Attorney to provide legal analysis and draft Ordinance regarding access to government records and right to Audit provisions; and
 4. Analysis of County versus City's process regarding Right to First Refusal.
- (Councilmembers Faulconer, Atkins, Madaffer, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

The Office of the Independent Budget Analyst has facilitated dual discussions on the City's Business Process Reengineering and Managed Competition processes. Our goal has been and continues to be to clarify issues and preserve Council's policy role in both processes. IBA Report 08-77 summarizes these discussions and identifies action items for Council consideration on the following topics:

- Clarification of the Managed Competition Independent Review Board (MCIRB) Role Early in the Process.
- An Accelerated Step of Identifying which Functions Proceed to Competitive Procurement.
- The Review and Approval of Preliminary Statement of Works by the City Council.
- Center for Policy Initiatives (CPI) Proposals on Healthcare, Service Levels, Independent Auditor Approval, Retaining Core Capacity, and Worker Retention.
- Timely Implementation of BPRs.

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FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On March 26, 2008, the Budget & Finance Committee voted unanimously to adopt and support the IBA's recommendations to amend the BPR Ordinance as identified in IBA Report No. 08-25 and refer to the full City Council.

On June 18, 2008, the Budget & Finance Committee voted unanimously to support and forward IBA Report No. 08-65 which provided an earlier update on our discussions to the full City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Discussions with stakeholders included representatives from the Mayor's Office, Councilmember Atkins' office, City Attorney's Office, Labor, Center for Policy Initiatives (CPI), the Managed Competition Independent Review Board (MCIRB) and the Office of the Independent Budget Analyst.

Celaya/Tevlin

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:07 p.m.;
4:29 p.m. - 4:29 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR'S OFFICE.

Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

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NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 4:29 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:29 p.m. - 4:29 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego